NORTH AMERICAN REVIEW

No. DLXXX.

MARCH, 1905.

THE CZAR'S SOLILOQUY.

BY MARK TWAIN.

After the Czar's morning bath it is his habit to meditate an hour before dressing himself.—*London Times Correspondence.*

[*Viewing himself in the pier-glass.*] Naked, what am I? A lank, skinny, spider-legged libel on the image of God! Look at the waxwork head—the face, with the expression of a melon—the projecting ears—the knotted elbows—the dished breast—the knife-edged shins—and then the feet, all beads and joints and bone-sprays, an imitation X-ray photograph! There is nothing imperial about this, nothing imposing, impressive, nothing to invoke awe and reverence. Is it this that a hundred and forty million Russians kiss the dust before and worship? Manifestly not! No one could worship this spectacle, which is Me. Then who is it, what is it, that they worship? Privately, none knows better than I: it is my clothes. Without my clothes I should be as destitute of authority as any other naked person. Nobody could tell me from a parson, a barber, a dude. Then who is the real Emperor of Russia? My clothes. There is no other.

As Teufelsdröckh suggested, what would man be—what would *any* man be—without his clothes? As soon as one stops and thinks over that proposition, one realizes that without his clothes a man would be nothing at all; that the clothes do not merely

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make the man, the clothes *are* the man; that without them he is a cipher, a vacancy, a nobody, a nothing.

Titles—another artificiality—are a part of his clothing. They and the dry-goods conceal the wearer's inferiority and make him seem great and a wonder, when at bottom there is nothing remarkable about him. They can move a nation to fall on its knees and sincerely worship an Emperor who, without the clothes and the title, would drop to the rank of the cobbler and be swallowed up and lost sight of in the massed multitude of the inconsequentials; an Emperor who, naked in a naked world, would get no notice, excite no remark, and be heedlessly shouldered and jostled like any other uncertified stranger, and perhaps offered a kopek to carry somebody's gripsack; yet an Emperor who, by the sheer might of those artificialities—clothes and a title—can get himself worshipped as a deity by his people, and at his pleasure and unrebuked can exile them, hunt them, harry them, destroy them, just as he would with so many rats if the accident of birth had furnished him a calling better suited to his capacities than emperoring. It is a stupendous force—that which resides in the all-concealing cloak of clothes and title; they fill the onlooker with awe; they make him tremble; yet he knows that every hereditary regal dignity commemorates a usurpation, a power illegitimately acquired, an authority conveyed and conferred by persons who did not own it. For monarchs have been chosen and elected by aristocracies only: a Nation has never elected one.

There is no power without clothes. It is the power that governs the human race. Strip its chiefs to the skin, and no State could be governed; naked officials could exercise no authority; they would look (and be) like everybody else—commonplace, inconsequential. A policeman in plain clothes is one man; in his uniform he is ten. Clothes and title are the most potent thing, the most formidable influence, in the earth. They move the human race to willing and spontaneous respect for the judge, the general, the admiral, the bishop, the ambassador, the frivolous earl, the idiot duke, the sultan, the king, the emperor. No great title is efficient without clothes to support it. In naked tribes of savages the kings wear some kind of rag or decoration which they make sacred to themselves and allow no one else to wear. The king of the great Fan tribe wears a bit of leopard-skin on his shoulder—it is sacred to royalty; the rest of him is perfectly naked. With-

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out his bit of leopard-skin to awe and impress the people, he would not be able to keep his job.

[*After a silence.*] A curious invention, an unaccountable invention—the human race! The swarming Russian millions have for centuries meekly allowed our Family to rob them, insult them, trample them under foot, while they lived and suffered and died with no purpose and no function but to make that Family comfortable! These people are horses—just that—horses with clothes and a religion. A horse with the strength of a hundred men will let one man beat him, starve him, drive him; the Russian millions allow a mere handful of soldiers to hold them in slavery—and these very soldiers are their own sons and brothers!

A strange thing, when one considers it: to wit, the world applies to Czar and System the same moral axioms that have vogue and acceptance in civilized countries! Because, in civilized countries, it is wrong to remove oppressors otherwise than by process of law, it is held that the same rule applies in Russia, where there is no such thing as law—except for our Family. Laws are merely restraints—they have no other function. In civilized countries they restrain all persons, and restrain them all alike, which is fair and righteous; but in Russia such laws as exist make an exception—our Family. We do as we please; we have done as we pleased for centuries. Our common trade has been crime, our common pastime murder, our common beverage blood—the blood of the nation. Upon our heads lie millions of murders. Yet the pious moralist says it is a crime to assassinate us. We and our uncles are a family of cobras set over a hundred and forty million rabbits, whom we torture and murder and feed upon all our days; yet the moralist urges that to kill us is a crime, not a duty.

It is not for me to say it aloud, but to one on the inside—like me—this is naïvely funny; on its face, illogical. Our Family is above all law; there is no law that can reach us, restrain us, protect the people from us. Therefore, we are outlaws. Outlaws are a proper mark for any one's bullet. Ah! what could our Family do without the moralist? He has always been our stay, our support, our friend; to-day he is our *only* friend. Whenever there has been dark talk of assassination, he has come forward and saved us with his impressive maxim, "Forbear: nothing politically valuable was ever yet achieved by violence." He probably believes it. It is because he has by him no child's book of world-

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history to teach him that his maxim lacks the backing of statistics. All thrones have been established by violence; no regal tyranny has ever been overthrown except by violence; by violence my fathers set up our throne; by murder, treachery, perjury, torture, banishment and the prison they have held it for four centuries, and by these same arts I hold it to-day. There is no Romanoff of learning and experience but would reverse the maxim and say: "Nothing politically valuable was ever yet achieved *except* by violence." The moralist realizes that to-day, for the first time in our history, my throne is in real peril and the nation waking up from its immemorial slave-lethargy; but he does not perceive that four deeds of violence are the reason for it: the assassination of the Finland Constitution by my hand; the slaughter, by revolutionary assassins, of Bobrikoff and Plehve; and my massacre of the unoffending innocents the other day. But the blood that flows in my veins—blood informed, trained, educated by its grim heredities, blood alert by its traditions, blood which has been to school four hundred years in the veins of professional assassins, my predecessors—*it* perceives, *it* understands! Those four deeds have set up a commotion in the inert and muddy deeps of the national heart such as no moral suasion could have accomplished; they have aroused hatred and hope in that long-atrophied heart; and, little by little, slowly but surely, that feeling will steal into every breast and possess it. In time, into even the *soldier's* breast—fatal day, day of doom, that! . . . . By and by, there will be results! How little the academical moralist knows of the tremendous moral force of massacre and assassination! . . . . Indeed there are going to be results! The nation is in labor; and by and by there will be a mighty birth—PATRIOTISM! To put it in rude, plain, unpalatable words—*true* patriotism, real patriotism: loyalty, not to a Family and a Fiction, but loyalty to the Nation itself!

. . . . There are twenty-five million families in Russia. There is a man-child at every mother's knee. If these were twenty-five million patriotic mothers, they would teach these man-children daily, saying: "Remember this, take it to heart, live by it, die for it if necessary: that our patriotism is medieval, outworn, obsolete; that the modern patriotism, the true patriotism, the only rational patriotism, is *loyalty to the Nation* ALL *the time, loyalty to the Government when it deserves it.*" With twenty-five million

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taught and trained patriots in the land a generation from now, my successor would think twice before he would butcher a thousand helpless poor petitioners humbly begging for his kindness and justice, as I did the other day.

[*Reflective pause.*] Well, perhaps I have been affected by these depressing newspaper-clippings which I found under my pillow. I will read and ponder them again. [*Reads.*]

POLISH WOMEN KNOUTED.

Reservists' Wives Treated with Awful Brutality—At Least One Killed.

Special Cable to THE NEW YORK TIMES.

BERLIN, Nov. 27.—Infuriated by the unwillingness of the Polish troops to leave their wives and children, the Russian authorities at Kutno, a town on the Polish frontier, have treated the people in a manner almost incredibly cruel.

It is known that *one woman has been knouted to death* and that a number of others have been injured. Fifty persons have been thrown into jail. Some of the prisoners were *tortured into unconsciousness.*

Details of the brutalities are lacking, but it seems that the Cossacks tore the reservists from the arms of their wives and children and then *knouted the women who followed their husbands into the streets.*

In cases where reservists could not be found *their wives were dragged by their hair into the streets and there beaten. The chief official of the district and the Colonel of a regiment are said to have looked on while this was being done.*

A girl who had assisted in distributing Socialist tracts was *treated in an atrocious manner.*

CZAR AS LORD'S ANOINTED.

People Spent Night in Prayer and Fasting Before His Visit to Novgorod.

LONDON TIMES—NEW YORK TIMES.
Special Cablegram.

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LONDON, July 27.—The London Times's Russian correspondents say the following extract from the Petersburger Zeitung, describing the Czar's recent doings at Novgorod, affords a typical instance of the servile adulation which the subjects of the Czar deem it necessary to adopt:

"The blessing of the troops, *who knelt devoutly before his Majesty,* was a profoundly moving spectacle. His Majesty held the sacred ikon aloft and pronounced aloud a blessing in his own name and that of the Empress.

"Thousands *wept with emotion and spiritual ecstasy.* Pupils of girls' schools scattered roses in the path of the monarch.

"People pressed up to the carriage in order to carry away an indelible memory of the *hallowed features of the Lord's Anointed.* Many old people had spent the night in prayer and fasting *in order to be worthy to gaze at his countenance with pure, undefiled souls.*

"The greatest enthusiasm prevails *at the happiness thus vouchsafed to the people.*"

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[*Moved.*] How shameful! . . . . how pitiful! . . . . And how grotesque! . . . . To think—it was *I* that did those cruel things. . . . There is no escaping the personal responsibility—it was I that did them. And it was I that got that grovelling and awe-smitten worship! *I*—this thing in the mirror—this carrot! With one hand I flogged unoffending women to death and tortured prisoners to unconsciousness; and with the other I held up the fetish toward my fellow deity in heaven and called down His blessing upon my adoring animals whom, and whose forbears, with His holy approval, I and mine have been instructing in the pains of hell for four lagging centuries. It is a picture! To think that this thing in the mirror—this vegetable—is an accepted deity to a mighty nation, an innumerable host, and nobody laughs; and at the same time is a diligent and practical professional devil, and nobody marvels, nobody murmurs about incongruities and inconsistencies! Is the human race a joke? Was it devised and patched together in a dull time when there was nothing important to do? Has it no respect for itself? . . . . I think my respect for it is drooping, sinking—and my respect for myself along with it. . . . There is but one restorative—*Clothes!* respect-reviving, spirit-uplifting clothes! heaven's kindliest gift to man, his only protection against finding himself out: they deceive him, they confer dignity upon him; without them he has none. How charitable are clothes, how beneficent, how puissant, how inestimably precious! Mine are able to expand a human cipher into a globe-shadowing portent; they can command the respect of the whole world—including my own, which is fading. I will put them on.

MARK TWAIN.

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THEODORE ROOSEVELT AND TIBERIUS GRACCHUS.

BY CHARLES S. DANA.

If one were to search the recorded doings of ancient and modern man with a view to finding a prototype of President Roosevelt, one's efforts would be, in a measure, rewarded on reaching the chapter devoted to Tiberius Gracchus. In birth, education, early environment, culture, ambition, even in temperament and character, there is a close resemblance between the ancient Tiberius and the modern Theodore. So striking is this resemblance that it suggests the possibility that Roosevelt may have taken the elder of the Gracchi as his model and kept the sturdy Tribune's aims and achievements constantly in mind during his own course along the pathway to distinction.

Tiberius was of noble, Theodore of gentle, birth. Both had in youth all the advantages that wealth and refined surroundings offer. Both developed a highly moral character. Both received an excellent degree of education. Both at an early age began to show an interest in public affairs. Both became thoroughly familiar with the history of their respective countries, and each, apparently, was convinced that a great and important task lay before him. In the methods by which each approached his task and, to a certain extent, in the tasks themselves, there is much similarity. Though related by birth and by marriage to people who are sometimes rather snobbishly called "the better classes," and associated with them in childhood and young manhood, both Tiberius and Theodore became essentially champions of the people and, later in life, antagonized—Tiberius very bitterly, and Theodore as yet only mildly—some of the more prosperous persons of their day and generation.

Nor does the parallel end here. Tiberius, as well as Theodore,

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saw something of military life. Tiberius assisted in storming Carthage; Theodore assisted in storming Santiago, or, at least, in attacking some of the heights surrounding the Cuban city. Tiberius lent his aid in destroying the Carthaginian power; Theodore lent his aid in bringing to an end the Spanish power in the Western Hemisphere. Though their military experience was brief, it was creditable, for each gave evidence of courage and patriotism. The qualities which each might have shown to better advantage in the field, if a wider opportunity had been afforded to him, were shown in civil life. Roosevelt, like Gracchus, is a man of rare boldness and undoubted courage. He is also energetic, aggressive, persistent, determined. His honesty, like that of Tiberius, is of the rugged sort that knows no taint of suspicion and permits no compromise with laggards or evil-doers. Obstacles in the pathway of Roosevelt, like those in the pathway of Gracchus, seem only to be incentives to greater exertion. Tiberius pursued his objects with a zeal and devotion which seemed at times to render him deaf to entreaty. Theodore is the peer of Tiberius in zeal and devotion, while he is his superior in judgment. Gracchus lived during times which mark an epoch in Roman history; who can doubt that Roosevelt lives at a time which is destined to mark an epoch in American history?

Great opportunities lay before Gracchus, and he met them with courage and determination, if not at all times with discretion; great opportunities also lie before Roosevelt. Few would deny that he, too, has courage and determination, and what means the recent election if not that the people, at least, have confidence in his judgment?

In order to show wherein the respective tasks of the Roman Tribune and the American President resemble each other, it is necessary to tell very briefly of some of the things which Tiberius Gracchus did.

When Tiberius was born the Roman state was in a bad way. The small farmers of Italy had been crushed to earth by the rapacity of the great landholders. By a system of rapine and extortion, extending over a period of several centuries, the great capitalists had acquired control of most of the lands of Italy. The small farmer had almost disappeared. Sometimes, when he refused to sell, he was defrauded of his lands either by force or cunning. It was the more easy to induce him to part with his

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modest possessions, because he found it impossible to compete successfully with the slave labor which the great landed proprietors had gradually introduced upon their estates. So the freemen of Italy were ultimately reduced almost to the condition of the slaves, and many, indeed, worked side by side with the slaves in the field—slaves themselves, in nearly everything but the name. The situation was not unlike that which would exist in the State of New York, if a few hundred persons should gain control of nearly all the lands in the State, introduce slave labor and so compel the former landholders to work for them for a miserable pittance. A situation, fortunately, which under modern conditions could exist only in the imagination and that merely for purposes of illustration! Fortunately, again, our modern evils are not agrarian.

Here was a condition of things that needed correction. Greed had gorged itself until a few were choking with abundance, while those upon whose possessions the more fortunate had fed were reduced to a state of abject woe. Many of the thinking men of Rome felt that, if the state did not put forth a supreme effort to meet these hard conditions, these conditions would soon overwhelm the state. This, in brief, was the problem that presented itself to Gracchus; and boldly did he address himself to its solution.

A way out of the difficulty lay in the fact that these Italian lands had originally been the property of the state. The proposition of Gracchus was that the state should resume possession of its own. He would leave to the occupants a certain portion of the lands they held, and lease the rest among the burgesses and others for a moderate rent. If the theory of socialism had been in vogue at Rome, Tiberius would have been declared a Socialist of the most pronounced sort. In effect, the scheme was socialistic, for families occupying or owning the lands now to be seized had held them for years, and in some cases for centuries, so that they had long since ceased to regard the state as possessing any claims to them. Under these circumstances, it was but natural that they should resolutely oppose the policy of Tiberius. The opposition came chiefly from the Senate, the headquarters of the Roman oligarchy. So, when Tiberius proposed the law, his opponents enlisted his colleague, one Marcus Octavius, to veto the measure. Later, the measure was again proposed and again

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vetoed; and here Tiberius manifested his impatience of all restraints, even of the constitutional sort, for he proposed to the people that either he or his colleague should retire from office—an unheard-of thing under Roman law. Octavius protested, but Tiberius put the question to a vote, with the result that Octavius was deposed. Then the way was clear for Tiberius to pass his measure. As the historian Mommsen intimates, Tiberius, who had previously risked himself to save the commonwealth, now risked the commonwealth to save himself. Into the further details of the controversy, we need not go. Suffice it to say that Tiberius continued to tread the unconstitutional path until he encountered the armed wrath of the Senatorial party, which feared or pretended to fear that he was about to usurp supreme authority. It seems to be generally conceded that the intentions of Tiberius were good; it seems to be generally agreed that his methods were dangerous. Certain it is that in exceeding his constitutional powers, he established a precedent which many a usurper could cite with significant emphasis in the dark days of Rome that were soon to follow.

It is far from the present purpose to attempt to draw any close parallel between conditions as they existed in Rome and as they now exist in the United States. That the two sets of conditions present some points in common will, perhaps, be admitted. It can hardly be denied that the trust magnates of the present day and the great Roman landholders in the days of Tiberius resemble each other somewhat in their relation to their respective communities, as do the small competitors of the trusts and the small farmers of those ancient times; and that the third party to the controversy, the general public, suffers now as it did then from the depredations of the wealthy and the consequent losses of the less fortunate. A problem, therefore, confronts Roosevelt, just as a problem confronted Gracchus.

This latter-day problem is commercial rather than agrarian or rather it is both commercial and agrarian, for agriculture, as well as mining, manufacturing, trade and commerce, and, in fact, all branches of human industry, are involved in what is popularly known as "the trust question." It is to "the trust question" that Mr. Roosevelt will doubtless direct his best efforts, just as Gracchus directed his best efforts to the land question.

The seriousness of the problem that confronts President Roose-

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velt has hardly begun to dawn upon the American public. The trust is a new thing. The public does not yet comprehend what it is, whence it came, or whither it is tending. In a general way, it knows that the trust is a vast combination of enterprises; that it can and does fix prices, control markets and prevent competition. So suddenly did the trust make its appearance, so startling are its methods, so defiant is it of the people and at times of the people's government, that the people can hardly be said to have recovered even yet from their first impressions of surprise and fear. The state of the public mind in regard to the trusts may even now be described as one of amazement at their sudden and gigantic growth, and alarm at their constant increase in numbers, wealth and power. It is as though numerous huge and terrible monsters should make their appearance among the hills and in the valleys, devouring here and there a victim, terrifying whole neighborhoods, and thus spreading alarm throughout the entire country.

This alarm seems destined to increase rather than to abate, until such time as the powers of the trusts shall be curbed. Time was in this country when the possessor of half a hundred thousand dollars, or less, was accounted wealthy. But a generation ago, a merchant who had accumulated a fortune of forty millions was regarded as a modern Crœsus. Now there are many fortunes of forty, fifty, seventy-five and even a hundred million dollars, and one citizen's belongings amount, or did amount within a few years, it is said, to one thousand million dollars. These figures emphasize the oft-repeated statement that the gulf between the rich and poor is widening and, consequently, becoming more and more impassable every year. And, if the changes that have taken place within the memory of the present generation have been so startling, what new and strange developments may not that generation witness which had its birth at the dawn of the twentieth century? And, if the veil be drawn aside a little farther, and we attempt to peer fifty, seventy-five or a hundred years into the future, what limits will there be to riches on the one hand and to misery on the other? It is time for men to consider whether they cannot prevent the abuses of great wealth, even though they may confess their inability to prevent these extraordinary accumulations.

Individuals die, and their wealth is distributed, usually, among

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many heirs. Corporations live, and their powers, already far too great, seem destined constantly to increase. Already, the trust has shown itself able to control legislatures, debauch the electorate and at times to defy even government itself. Executives, legislators, prosecuting officers and courts of justice can testify to the difficulties which lie in the way of dealing with great aggregations of capital. All acknowledge that the evils of the situation are many and serious; few have any remedy to suggest. Where is the man with ability to devise a remedy and the courage to apply it?

President Roosevelt has given abundant evidence that he appreciates the enormity of the trust evils, and has manifested a desire to overcome them. Speaking at Providence in August, 1902, he emphatically declared that legislation was necessary to control the trusts, and he urged a constitutional amendment, if it were necessary, to give Congress authority to pass such legislation. Just what legislation was needed was evidently not clear to him, for he said: "I see no promise of a complete solution for all the problems we group together when we speak of the trust question." But he repeated that "additional legislation should be had."

At this time, President Roosevelt had occupied his high office a little less than a year. Since then, the Northern Securities decision has been rendered and the Beef Trust enjoined. It cannot be said that these achievements touch the root of the evil. It is as though Tiberius had waged war upon one or two of the great landed proprietors of his day, and gained a partial victory over them.

A far more significant achievement than these is the establishment of the Department of Commerce and Labor. This, at least, will enable the government to find out what it never was able to ascertain before—something about the inner workings of the trusts. At last, Mr. Roosevelt's dream of "publicity" seems about to be realized. When the investigations of this newly-created Department are made known, a long step will have been taken toward the solution of the difficulty. Publicity, however, is not all that is needed. It may suggest a remedy. It is not a remedy in itself.

It is hardly to be supposed that Mr. Roosevelt, who during the first year of his Presidency acquired something of a reputation as a "trust-buster," has desisted altogether from his attacks upon the trusts. "Trust-buster" is, of course, an idle term.

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"Trust-curber" would suit the President better. That he has abandoned his idea of curbing the trusts, those who know Mr. Roosevelt are as little inclined to believe as those who knew Tiberius would have been inclined to believe that he would desist from his purpose of curbing the Roman landholders. The people, who are close to President Roosevelt, and who seem to regard him as closer to them than any President since Lincoln, will wish him "Godspeed."

There is a widespread belief that a change will come over the policy of the Roosevelt administration soon after the President's inauguration. When the mantle of the martyred McKinley, so to speak, falls from Mr. Roosevelt's shoulders, and he dons the ample robe provided for him by the people,—when, in other words, he receives his commission direct from the voters,—he will feel free to do and to attempt many things which he has thus far left undone or unattempted—at least, such is the general impression. The reason for his present attitude lies, doubtless, in his lofty sense of honor, which during the past three years must have made him ever mindful of his promise, made immediately on the death of his predecessor, that it should be his "constant aim to follow in the footsteps of William McKinley." On the fourth of March he will be absolved from that promise. On that day he will become President by virtue of election, and he can then inaugurate his own policies.

The Tribune, Gracchus, had but a year for the accomplishment of his reforms. He worked quickly and accomplished much. Legislation was a simpler matter in ancient Rome than it is in the United States. By the end of his term, President Roosevelt will have had nearly eight years to carry out his programme. The first year was spent in familiarizing himself with his task. By that time he saw the utter futility of proceeding against the trusts without complete information as to their status, their methods and their violations of law. Then came the establishment of the Department of Commerce and Labor. That was about two years ago, and during that period the Department must have collected a mass of data which has enabled the President to formulate, in a measure, his trust-curbing policy. His spirited action in favor of railroad-rate legislation and the prompt response of the House of Representatives in passing the Esch-Townsend bill by an almost unanimous vote, though important in themselves, are also

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significant as precursors of what is likely to follow. But as Gracchus's real struggle was with the Roman Senate, so will Roosevelt's real struggle be with the American Senate. And as in the Roman Senate there was a powerful party which bitterly opposed the Tribune, so it is evident that in the American Senate there is a party, hardly less powerful, which is determined earnestly to oppose the President.

History shows that it is in the upper branch of parliamentary bodies that the conservative interests of a State manifest their chief strength. It is in the Senate that Mr. Roosevelt will find some of his strongest antagonists. Tiberius triumphed over the Roman Senate; will Theodore prevail over the American Senate? The answer must be left to the future.

It has been said that, in their methods of approaching their respective tasks, there is much similarity between Gracchus and Roosevelt. Gracchus in his work showed courage, resolution, persistency and boldness. Those who have observed Mr. Roosevelt's courage and resolution in the Cuban reciprocity matter, his persistency in the Crum case and his boldness in connection with the Panama incident need not doubt that his courage, resolution, persistency or boldness will desert him in his assault upon the trusts.

One other parallel between Gracchus and Roosevelt has not yet been noted. Roosevelt, like Gracchus, is impatient of restraint. Gracchus was more than impatient even of constitutional restraints. There are those who might say that in this respect also the American President resembles the Roman Tribune. Certain it is that, while he may emulate to advantage the noble achievements of Gracchus, Mr. Roosevelt will do well to avoid the errors of his great Roman prototype. But his is not the temperament which permits a man to derive satisfaction merely from avoiding errors!

In joining issue with the trust magnates, President Roosevelt will have the advantage, over Tiberius Gracchus, of dealing with men who are not as yet entrenched behind the prestige of centuries. He will have the disadvantage of dealing with men of vastly greater wealth, and hardly less power, than those who confronted Tiberius two thousand years ago.

CHARLES S. DANA.

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THE TREATY-MAKING POWER.

BY UNITED STATES SENATOR S. M. CULLOM, CHAIRMAN OF THE COMMITTEE ON FOREIGN RELATIONS.

MR. GLADSTONE said, of the Constitution of the United States: "It is the most wonderful work ever struck off in a given time, by the brain and purpose of man." It is the foundation of the Republic, the enduring ledge which grips, forever, the anchor of our Ship of State. The difficulty of changing it is so great that it is almost immutable. Immediately after it went into effect ten amendments were adopted, and in the hundred and sixteen years that have followed, but five more have been found necessary; three through the abolition of slavery. Though framed for only six million pioneers, in the wilderness, it has stood the tests of time and the expansions of more than a century, and is to-day for eighty millions of people and the dominant nation of the earth as firm a foundation and safe an anchorage as it was for their forefathers.

Few important questions remain unsettled concerning the scope and intention of the Articles of the Constitution. Among them the most interesting concerns the treaty-making power. Even before its adoption, the able statesmen who framed the clause had widely differing opinions concerning its scope, and from 1796 to the present day the same diversity has caused long and heated debates in both branches of Congress.

When the President made and submitted to the Senate the treaty with Cuba, providing for the admission into this country of Cuban products, at reduced rates of duty, in contravention to the Dingley tariff, in return for like concessions from Cuba, upon our products, the treaty was duly ratified by the Senate, by more than a two-thirds vote, but it contained a provision that it should not take effect until approved by the Congress. The discussion

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which arose was over the bill approving it, and the wide difference of opinion which still exists was shown in the three distinct positions which were supported, in debate, by the most learned and able lawyers in the Senate:

First, that reciprocity treaties could not constitutionally be made and ratified by the President and the Senate, even though Congress may subsequently pass a law to carry such treaties into effect, or may repeal the tariff laws with which they conflict;

Second, that reciprocity treaties *can* constitutionally be made by the President, ratified by the Senate, but that Congress must pass a law carrying all such treaties into effect;

Third, that the President and Senate have the power to make and ratify reciprocity treaties, and that they immediately become the supreme law of the land, repealing any law with which they may conflict; that, where the treaty does not itself provide for Congressional action, it becomes fully effective upon ratification by the Senate.

The Constitution says that the President shall have power, with and by the advice and consent of the Senate, to make treaties. At least, we shall all admit that the President does not derive his treaty-making power from Congress, and that no law of Congress can in any way modify or limit that power, and that, in the Constitution, Congress, as a legislative body, is not, in any way, a part of the treaty-making power.

Justice Field said upon this question:

"The treaty-making power, as expressed in the Constitution, is in terms unlimited except by those restrictions which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself, and that of the States. It would not be contended that it extends so far as to authorize that which the Constitution forbids, or a change in the character of the Government, or in that of one of the States, or a cession of any portion of the territory of the latter without its consent. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiations with a foreign nation."

Justice Story said:

"The power to make treaties is by the Constitution general, and of course it embraces all sorts of treaties, for peace or war, for commerce or territory, for alliance or succors, for indemnity for injuries or pay-

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ment of debts, for recognition and enforcement of principles of public law, and for any other purpose which the policy or interests of independent sovereigns may dictate in their intercourse with each other."

The history of the treaty-making power is, in itself, suggestive of its intent. In the original Articles of Confederation, the power was given to Congress, only limited by the provision that no treaty should restrict the legislative power of the States to impose duties and prohibit commerce in any species of goods; and not the least of the defects which soon developed in the Articles was the defect in the treaty-making power. The result was the Constitutional Convention for the purpose of revising the Federal system of government, which met May 14th, 1787.

Early in the Convention, Alexander Hamilton suggested, practically, the treaty-clause which was afterward adopted: "That the Executive, with the advice and approbation of the Senate, have power to make all treaties, and that those treaties be a part of the supreme law of the land." Twice, in the Convention, it was proposed to add the House of Representatives, but Pennsylvania alone voted in the affirmative. An amendment was proposed by Mr. Morris, that no treaty should be binding till it was ratified by law, and this was also lost. During the last discussion of the clause, Mr. Wilson moved again to add the words, "House of Representatives," and this was also lost.

All of this is indisputable evidence, clearly showing that the subject was carefully discussed and fully understood, and that the almost unanimous voice of the Convention, of the framers of our Constitution, was that the treaty-making power should be vested in the President and its ratification rest with the Senate.

Before its final adoption, the Constitution was carefully, sometimes violently, discussed and debated in State conventions, every State taking up the treaty clause, Virginia most hotly of all, and finally suggesting the amendment that: "No commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the Senate." If the able men of Virginia who discussed this treaty-clause, as founders of the Constitution, had so construed it that, before a commercial treaty could become binding, an act of Congress would be necessary to establish it, they would not have sought to introduce an amendment providing that "no commercial treaty shall be ratified without the concurrence of two-thirds of the *whole* number of the Senate."

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The first and in many respects most noteworthy attempt to restrict this power occurred in the House in 1796, seven years after the adoption of the Constitution. The House was called upon for an appropriation of $80,000 in carrying out the terms of the so-called "Jay treaty," between England and the United States. The treaty was intensely unpopular in the United States, a fact which influenced the action. It was in every sense a commercial treaty. Not until it was ratified and proclaimed did President Washington send a copy to the House "for its information," in connection with the appropriation. The House was in a majority against the Administration. It was an opportunity not to be lost. A resolution was offered, requesting President Washington to furnish the House with all correspondence in the matter, that it might judge of the wisdom of passing the appropriation. The right of the House to consider any question connected with a treaty, against its imperative duty to appropriate money so required, was vigorously fought, for a month—a long time, considering the fact that at the time there were only 96 members. They were reminded that in March, 1794, a law went into effect laying an embargo on all vessels, when the Executive construed an earlier treaty with Sweden as exempting the vessels of that nation, and they were suffered to depart, although Congress had prohibited it; that several treaties had been concluded with Indian tribes, embracing all of the points which were now subject of contest—settlement of boundaries, money grants—ratified by the Senate and proclaimed, without reference to the House, but that the House had considered them laws and made the necessary appropriations without discussion. The majority prevailed, and the resolution passed. President Washington refused to present the required correspondence, saying, in his message:

> "Having been a member of the general convention, and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on the subject, and from the first establishment of the Government to this moment my conduct has exemplified that opinion, that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur, and that every treaty so made and promulgated thenceforward becomes the law of the land."

This opinion of President Washington was not based wholly upon his own convictions, nor was he alone responsible for the

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action. He received written opinions from every member of his Cabinet. Among them was Oliver Ellsworth, afterward Chief Justice of the Supreme Court. Chief-Justice Ellsworth's letter, written March 13, 1796, I believe, has never before been published. It is, in part, as follows:

"The grant of the treaty-making power is in these words: 'The President, with the advice and consent of the Senate, shall make treaties.' The power goes to all kinds of treaties, because no exception is expressed; and also because no treaty-making power is elsewhere granted to others, and it is not to be supposed that the Constitution has omitted to vest sufficient power to make all kinds of treaties which have usually been made, or which the existence or interests of the nation may require.

"The effect of treaties is declared in these words: 'All treaties made under the authority of the United States shall be the supreme law of the land.' The Constitution gives them their effect, and they do not, therefore, need or derive it from Congressional resolutions or statutes. The instant the President and Senate have made a treaty, the Constitution makes it the law of the land; and, of course, all persons and bodies, in whatever station or department, within the jurisdiction of the United States, are bound to conform their actions and proceedings to it.

"Such treaty, *ipso facto*, repeals all existing laws so far as they interfere with it. This is an inseparable attribute of a statute or of what has the effect of one; but, on the other hand, a treaty cannot be repealed or annulled by statute, because it is a compact with a foreign Power, and one party to a compact cannot dissolve it without the consent of the other.

"The claim of the House of Representatives to participate in or control the treaty-making power is as unwarranted as it is dangerous. It has no support but from a usage of the British House of Commons, the reason of which does not apply here. The House of Representatives have no examination to make, nor does it appear that they have before them any legitimate object of inquiry to which the papers can apply. They have a right to impeach, or to originate a declaration of war, but neither of these objects is avowed by the House nor are they to be presumed."

A resolution of protest was passed, but the House also passed the necessary appropriation; so that the question was left unsettled on the first occasion when it was discussed, and the same arguments have been used many times, since then, down to the present day, with the same result, and it is doubtful if it is now any nearer a final settlement, at least so far as the contending opinions of Congress are concerned.

In 1803, the whole question was again discussed, when Congress

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was called upon to make the appropriation for the purchase of Louisiana. Jefferson was then President. In 1790, he was of the opinion that a treaty of itself repealed a revenue law, as he stated, in a written opinion, on a treaty with the Creek Indians, which he submitted to Washington on July 29th:

"A treaty made by the President, with the concurrence of two-thirds of the Senate, is the law of the land, and a law of superior order, because it not only repeals past laws, but cannot itself be repealed by future ones. The treaty then will legally control the duty acts."

It will be noted that Jefferson's opinion touches the very question which has been so much discussed—whether a treaty, of itself, repeals a duty or revenue law.

Thus far the question had only been as to the duty of the House to pass the required appropriations; but, in 1816, the question came under consideration: Does an act of Congress become necessary to repeal a revenue or tariff law with which a treaty conflicts, or does the treaty, of its own force, repeal it? It cannot, I suppose, be questioned that treaties generally repeal laws with which they conflict; but do they repeal revenue and tariff laws?

The treaty regulating commerce and trade between the United States and Great Britain, signed by Adams, Clay and Gallatin, was necessitated by discriminating revenue laws which grew out of the war of 1812, and was in direct conflict with certain revenue acts of Congress. After it was ratified and proclaimed by President Madison, he laid the proclamation before Congress, stating: "I recommend such legislative provisions as the convention may call for, on the part of the United States."

Simply out of courtesy, the Senate passed a Declaratory Act, stating that: "So much of any act or acts as is contrary to the provisions of the convention shall be deemed and taken to be of no force or effect." But the House, in an effort to instigate the question of its rights, passed a bill of its own, in which the provisions of the treaty were substantially reenacted, in the shape of law. When this bill came before the Senate, Senator Barbour, of Virginia, made a strong protest, in which he said:

"Is the aid of the legislature necessary in all cases whatsoever to give effect to a commercial treaty? It is readily admitted that it is not; that a treaty whose influence is extra-territorial becomes obligatory the instant of its ratification; that, as the aid of the legislature

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is not necessary to its execution, the legislature has no right to interpose. It is then admitted that while a general power on the subject of commerce is given to Congress, that yet important commercial regulations may be adopted by treaty, without the cooperation of the legislature, notwithstanding the generality of the grant of power on commercial subjects to Congress.

"If it be true that the President and Senate have, in their treaty-making power, an exclusive control over part and not over the whole, I demand to know at what point that exclusive control ceases. In the clause relied upon there is no limitation. The fact is, none exists. The treaty-making power over commerce is supreme. No legislative sanction is necessary, if the treaty be capable of self-execution; and when a legislative sanction is necessary, as I shall more at large hereafter show, such sanction when given adds nothing to the validity of the treaty, but enables the proper authority to execute it; and when the legislature does act in this regard, it is under such obligation as the necessity of fulfilling a moral contract imposes. Congress has power to lay embargoes, pass non-intercourse laws, or non-importation or countervailing laws, but the President and Senate have a right to repeal or modify them by treaty. If by treaty we agree, as in this case, that for an equivalent we will forbear to exact a higher tonnage duty on British than American ships, then the treaty, as it needs no legislative aid, is self-executory."

Senator Fromentin, an able lawyer and judge, who spoke upon the question, said:

"A treaty is a law; it is not to become a law when an act shall have been passed by Congress to make it so. Otherwise, it would have been useless to make treaties a part of the supreme law. The Constitution declares that from the moment a treaty has been ratified, by and with the consent and advice of the Senate, it is the supreme law. There can be no two definitions of law. Does not a treaty of peace repeal the act of Congress declaring war?"

Two of the greatest speeches ever made in Congress were delivered, on this occasion, by John C. Calhoun and William Pinkney, both in the House of Representatives, both claiming that the treaty itself, by its own force, repealed all laws in contravention with it.

These speeches are far too long to quote. Brief extracts cannot give the pith of them. Those interested in the subject should obtain and study the entire reasoning of these two men, upon a vital occasion when they turned their best talents to the question.

Only one clause of Mr. Calhoun's speech is here quoted, and that simply because it suggests a vital argument why the treaty-

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making power must be vested in other hands than Congress. In defining a treaty as a contract between two parties, he said:

"It is no more or less than that Congress cannot make a contract with a foreign nation.

"Let us apply it to a treaty of commerce—to this very case. Can Congress do what this treaty has done? It has repealed *the discriminating duties* between this country and England. Either could by law repeal its own. But by law they could go no further, and for the same reason that peace cannot be made by law. Whenever, then, an ordinary subject of legislation can only be regulated by contract, it passes from the sphere of the ordinary powers of making laws and attaches itself to that of making treaties. The truth is the legislative and treaty-making powers are never in the strict sense concurrent. They both may have the same subject, as in this case commerce, but they discharge functions as different in relation to it in their nature as their subject is alike. It is proposed to establish some regulation of commerce. We immediately inquire, Does it depend on our will; can we make the desired regulation without the concurrence of any foreign power? If so, it belongs to Congress, and any one would feel it to be absurd to attempt to effect it by treaty.

"On the contrary, does it require the consent of a foreign power? *Is it proposed to grant a favor, to repeal discriminating duties on both sides?* It is equally felt to belong to the treaty power; and he would be thought insane who would propose to abolish the discriminating duties in any case by an act of the American Congress."

But another document exists which is not so easily accessible, as it has never been published. It is a letter written by J. C. Calhoun, when he was Secretary of State, in 1844, to Mr. Henry Wheaton, in whose hands was the negotiation of the treaty between the United States and the German Customs Union. The original letter is now in the State Department.

The treaty had been presented to the Senate, and by the Foreign Relations Committee its ratification was unfavorably reported, so close upon the adjournment of the Senate that discussion was impossible, and it was laid on the table. A few lines from Secretary Calhoun's letter will show that by the wider field and closer intimacy with the possibilities and necessities of the treaty-making power his previous opinions had only been strengthened. The letter states:

"I have examined the objections to the treaty with care, and must say they seem to me neither insuperable nor formidable. The two leading objections urged are: 'lack of constitutional competency' to make the

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treaty and 'the unequal value of the stipulated equivalents.' The report relies mainly upon the former to support the conclusions. 'Upon this single ground' it advises that it be rejected. The report states that 'the control of trade and the function of taxing belong, without abridgment or participation, to Congress'; and concludes that the treaty is unconstitutional and ought to be rejected.

"With all due deference, I must think that the report greatly errs as to a part of its premises and wholly as to its conclusions."

After referring to past treaties the letter continues:

"There is an entire and numerous class—I refer to reciprocity treaties—which almost invariably contain changes in existing laws regulating commerce and navigation, and duties laid by law. So well is the practice settled that it is believed it has never before been questioned. The only question, it is believed, that was ever made was, whether an act of Congress was not necessary to sanction and carry the stipulations, making the change, into effect.

"It is true that the Constitution delegates to Congress the power of regulating commerce and laying duties. But does the delegation of a power to Congress exclude it from being the subject of the treaty-making power? If so, then all powers appertaining to our foreign relations are excluded from the treaty power.

"The treaty-making power has been regarded to be so comprehensive as to embrace, with few exceptions, all questions which can possibly arise between us and other nations, and which can only be adjusted by mutual consent."

William Pinkney, the great statesman, lawyer and diplomat of the day, who made the other notable address, with Mr. Calhoun, was a member of the conventions ratifying constitutions, and was equally earnest in insisting that the treaty of commerce is self-executing. Aside from its lucid opinions, however, there is a paragraph bordering on prophecy, which suggests the reason, not only of the continual renewal of this question in Congress, but why the public at large should be thoroughly informed in this vital matter, and be able to render intelligent judgment, without relying upon some, possibly prejudiced, mentor. Mr. Pinkney said:

"By what process of reasoning will you be able to extract from the wide field of that general provision, giving the President and Senate power over treaties, the obnoxious case of a commercial treaty, without forcing along with it the case of a treaty of peace, and along with that again the case of every possible treaty?

"Nay, the whole treaty-making power will be blotted from the Con-

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stitution, and a new one, alien to its theory and practice, be made to supplant it, if sanction and scope be given to the principles of this bill. The bill may indeed be considered as the first of many assaults, not now considered as assaults perhaps, but not therefore the less likely to happen, by which the treaty-making power, as created and lodged by the Constitution, will be pushed from its place and compelled to abide with the power of ordinary legislation. The example of this bill is beyond its ostensible limits.

"The pernicious principle, of which it is at once the child and apostle, must work onward and to the right and left until it has exhausted itself, and it never can exhaust itself until it has gathered into the vortex of the legislative powers by Congress the whole treaty-making capacity of the Government."

The suggested possibility has thus far proven true, and the matter is still under discussion, with no new features; and still as far from final settlement, apparently, as ever. Mr. Pinkney's fear that it might become a matter of *policy* seems not to have been without foundation. In many more modern instances than these that have been referred to, the ground has been gone over and over. Masses of the ablest opinions have been collecting, but all to no purpose. Volumes of later quotations might be made, in line with those already given; meanwhile, we have been continuously negotiating treaties, through the Executive, ratified by the Senate, which have, therefore, been sustained as the supreme law of the land.

The Constitution gives to Congress powers over specific subjects; but that has never prevented the treaty-making power from regulating the same subjects by convention. Congress is given power to establish a uniform rule of naturalization, for example; yet, in our treaty acquiring Louisiana, it was expressly stated that the residents of the territory should become citizens of the United States. Congress is given power to make rules for the government of the army and navy, but the Hague Convention stipulated rules which would govern our armies in case of war.

It is claimed that reciprocity treaties, unlike other treaties, do not become fully effective without Congress, because the Constitution provides that bills for raising revenue shall originate in the House; but there is less reason for saying that a reciprocity treaty is unconstitutional because of that provision, than that a commercial treaty is unconstitutional because of the commerce clause. The provision was not intended as a limit to the treaty-

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making power. It was Justice Story's opinion that the term "revenue bill" implies those bills which levy taxes, in the strict sense of the word, and not bills for other purposes which may incidentally deal with revenue. As a matter of fact, the legislative and treaty-making powers are absolutely separate and distinct. Whenever there is to be an agreement between two independent nations, there the treaty power must make the laws that shall govern; and the very fact that they are to govern two nations renders it obviously necessary that they must be supreme and immutable. It is true that the Supreme Court has held that an act of Congress may repeal a treaty; but such a repeal would only be effective so far as our own domestic law is concerned. The other nation would still have a right to consider us bound, by our contract; and, if the contract was broken on our part, it might lead to a declaration of war. The two powers do not conflict. The whole controversy is an effort to crowd another element, a very large and divided element, to-day—the House of Representatives—into the treaty-making power, with the result which Pinkney so pointedly suggested. It requires no extended vision to see the complications and delays which would result, increasing the already hampered conditions of international intercourse and contact, and the absurdities to which it would lead.

The powers are distinct. The framers of the Constitution intended that they should be distinct. They must remain distinct. A reciprocity treaty is as much a part of the supreme law of the land as any other treaty, and, if it contains no provision for Congressional action, of its own force it repeals a revenue or tariff law the moment it is made by the President and ratified by the Senate.

The recent claim that the "favored nation clause" in our treaties precludes us from making reciprocity conventions, has already been determined by the Supreme Court, in its statement that other nations cannot ever claim the same concessions as are given by means of reciprocity, as they are obviously an exchange of valuable considerations.

The strongest argument and authority which have been used against the validity of reciprocity treaties appeared in a speech which the late Senator Morrill made, in the Senate, when the Mexican treaty was pending for ratification. He is reported in the "Record" as saying, on the authority of Senator Hoar, that

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Daniel Webster said: "I hope I know the history of my country better than to think a reciprocity treaty is constitutional."

Since that time, this has often been referred to; and it has been made the most of, in many ways. It may possibly be the case; but, without expressing a personal opinion, I can say that I have made a most thorough examination without being able to find any such statement, or indication of where it was made. In a speech in Baltimore, in 1845, Daniel Webster declared his opinion that the principle of reciprocity was wrong; but he did not say that a reciprocity treaty was unconstitutional. There is also a letter of instruction which Webster wrote to our Minister in England, in reference to the proposed Oregon boundary treaty, in which he said: "Any attempt to regulate duties by treaties must be well considered, before it is entered upon." Such a statement does not indicate that Webster considered reciprocity treaties unconstitutional.

Retracing the steps, it is difficult, I think, for any one who is unprejudiced to understand how our treaties can be considered unconstitutional or can require Congressional action before becoming effective. The treaty-making power must rest where the Constitution so plainly vests it, in the President, with and by the advice and consent of the Senate; and, for the best interests of the country and the facility of international intercourse, I hope it may always remain so.

S. M. CULLOM.

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HOW THE STOCK-MARKET REFLECTS VALUES.

BY CHARLES A. CONANT.

It is a truism that changes in the value of corporate properties are reflected by changes in quotations for their shares in the stock-market. It is not so well understood, perhaps, outside of economic circles just how far values in the stock-market also reflect the values of other forms of property, and determine the direction of the employment of capital. It is sometimes assumed that the stock-market is a thing apart from other markets, and that such persons as the manufacturer, the merchant, and the dealer in real estate need not give attention to its vagaries as having any bearing on their own transactions. It is proposed here to show that quotations on the stock-market, while more sensitive than those for other forms of property, in the long run reflect all values which are influenced by the supply of capital and determine the direction in which new capital shall be applied.

The stock-market is the barometer of the supply of uninvested capital and the demand for it. The fluctuations in the different classes of securities on the stock-market afford an index to the owners of free capital in what direction it can be most profitably invested. If Western railway stocks, for instance, are high, it is an indication that they are earning large dividends, and is an encouragement to float new enterprises of a similar character. Similarly, if the earnings of steel companies are poor, their securities decline in value, and this is a convincing warning to capitalists not to buy the securities of new steel enterprises. Mistakes, miscalculations, over-sanguine estimates of the future, too rapid discounting of prospective benefits, are, of course, constantly taking place, but they are mistakes which are quickly corrected when the sensitive indications of earning power and stock-market values give clear warning.

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Prices, whether of commodities or of securities, are an index of relative values. If a bushel of wheat sells for one dollar at the same time that ten pounds of cotton sell for one dollar, it is an indication that these quantities of these two articles are of equal values. But when a bushel of wheat sells for 80 cents and ten pounds of cotton continue to sell for one dollar, the fact is expressed that wheat has fallen in relation to cotton in the value proportion of one-fifth. It is the same in regard to securities. If the Blank Railway stock sells at 120 while some other stock sells at 100, it is an indication that in the estimation of buyers the Blank Railway stock is worth twenty per cent. more than the other stock. Any common denominator would express the ratio of value between wheat and cotton, like the use of the numerals 4 to 5 or 4-5 to 1. Money has come to be used in civilized communities, however, to express this relation, so that relative values take the form of prices. It remains to point out how these ratios of value, as reflected in prices, determine in the long run the direction of the entire economic efficiency of a community,—that is, the direction in which every man shall apply the savings of his past labor and his actual future labor.

As already pointed out, the value of commodities is a question of their relationship to each other. The interposition of money in a sense complicates the determination of value. It greatly simplifies the expression of other values because it affords a common denominator, but it introduces the element of possible fluctuations in the value of money into the fluctuations of relationship between different commodities. Money is itself a commodity highly sensitive in its relationship to other commodities. Whether changes in its value are the result of causes arising in connection with money or causes arising in connection with goods can be passed over here. It is only necessary to point out that money is in a sense a commodity of a highly variable value, because it reflects the changes of relationship between all other things.

Real money in gold-standard countries consists of gold. The floating stock of gold, therefore, in any community may be described as on the margin of values, because it is highly sensitive to events affecting the economic relations of demand and supply of other articles. Gold is the most acceptable of all commodities, because it is the most exchangeable. Almost equally available, however, for exchange are other forms of currency, many forms

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of credit, like bills of exchange, drafts and foreign balances, and the active stocks quoted on the stock exchange. Especially available are those securities dealt in between several countries, which are the subjects of arbitrage operations. If 100 shares of one of these stocks can be sold in London at a slightly higher price than it can be bought for in New York, due consideration being given to rates of interest and exchange, then it becomes a useful medium for transferring capital or credit. In some respects such securities are even more mobile than gold, although not more mobile than credits which are transferable by cable.

While securities are, therefore, practically as sensitive to changes in value as gold or foreign credits, yet in a graded scale of such sensitiveness or mobility gold would, logically at least, be put first; other classes of currency next; then other forms of credit; then stocks on the active list; next stocks and bonds suitable for trust funds and usually on the inactive list; then raw materials of production; and, finally, fixed capital in the form of manufacturing plants, railways, and improved real estate. A disturbance of the economic order, whether by a shock to confidence or by an increased demand for given products, acts first upon the demand for banking credits, which rest upon gold; then upon the prices of active stocks; then upon those less active; and, if persistent in its operation, upon the prices of the materials of industry, upon the values of manufacturing and transportation plants, and even upon real-estate values of all classes.

It might seem at first blush as though only those values were affected by the stock-market which are represented by securities quoted on the market. It is undoubtedly the fact that it is these quoted properties which are most sensitive to changes in the conditions which affect value. The so-called "active" stocks in the market—those which are most traded in by speculators—constitute a sort of elastic element, below which are the more solid securities which are less active, and, farther down, properties which are not represented by securities at all. Many of the changes in the stock-market, especially those of a day or a week, do not seem to be reflected directly by corresponding changes in the values of other property. The owner of a house or a building-lot in New York or Washington, or of a farm in Illinois or Nebraska, does not change the price of his property because Pennsylvania Railroad stock has fallen three points the previous day

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in Wall Street, or the Steel Corporation has reduced its dividend. If, however, the causes which produce these changes in the quotations for stocks are permanent or serious in their character, they sooner or later react upon all values, whether they are represented by stock-exchange securities or not.

Even in respect to the fluctuations of a day, while they may not result in a deliberate change in the price of a property, they may affect the possibility of its sale. In an ascending stock-market, regarded as the index of genuine business progress, a purchaser of ground for a new factory will be much more disposed to pay the price charged than in a falling or irregular market, which may be the index of industrial troubles to come. Subject also to the influence of stock-market hopes or fears will be the man purchasing land for a new home, in the expectation of continuous business prosperity. If he doubts the future, he will wait, and if he waits long the market for real estate, as well as that for stocks, will feel the influence of his waiting. Thus it is clear that all properties substantially reflect sooner or later the sensitive indications of changes in value afforded by the stock-market. Those influences which merely make for delay and for a "slow" or "heavy" market are less apparent, because they cannot be reduced to a definite mathematical expression. It is upon the stock-market that new influences affecting values are felt most promptly and keenly, because the market is capable, by fractional changes in quotations, of measuring them through the medium of price.

The "active" stocks fluctuate more frequently and widely than other classes of property because they are on the margin of speculation. They represent marginal investment in several senses. They represent usually properties whose dividends are more likely to be suspended, or their prospect of future dividends postponed or impaired, by unfavorable developments affecting value than the bonds or "gilt-edged" stocks which are not the subject of speculation. Their origin and position are well defined by Emery:*

"Each new enterprise must stand the test of criticism, and unless unusually sound will be the subject of active speculation. Its ups and downs follow the changes of opinion, until gradually a continuous flow of dividends of moderate amount shows the stability of the real value (or lack of dividends shows the valuelessness) of the security, and specula-

* "Speculation on the Stock and Produce Exchanges of the United States," p. 153.

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tion ceases. The particular investment has been put through the ordeal and come out whole. It then becomes a field for the private investor. Many of the more active stocks of to-day may run the same course, and fall into the honorable obscurity of certainty."

In another and perhaps more distinctive sense the active stocks are on the margin of speculation, because they are more influenced than other properties by the amount of free capital in the market. There is always an undistributed supply of these active stocks which is readily absorbed when surplus capital is plentiful, but which proves a weight upon the market when free capital becomes scarce. While these supplies of capital are daily influenced by those forces which influence earning power, it might theoretically be possible that capital had become scarce while earning power continued unimpaired. In such cases, the market prices of the stock would fall because of the scarcity of capital. This cause might be described as extrinsic to the stock, while the causes influencing its dividend-paying power would be intrinsic. It is the constant interplay of these two classes of forces—those which influence earning power directly, and those which influence the supply of free capital—which determines actual quotations in the stock-market.

Each of these influences, moreover, reveals itself in manifold forms. Among the influences which affect prospective earning power, are all the facts and rumors which indicate the economic future,—not only whether crops are to be large or small, but whether consumption is to be greater or less; whether given properties are managed well or ill; whether the rate of growth of population and wealth promises increased earning power in the future, or whether competitive establishments threaten to reduce the margin of profit; whether legislatures are disposed to grant new franchises and continue old ones, or to impose direct burdens to be paid out of dividends, and indirect burdens, which gradually cripple the producing power and the initiative of the community.

It is because these facts and many others have a bearing on the present and future earning power of property represented by securities on the stock exchange that every particle of news having any business significance, even though it is in part diplomatic or political, is so eagerly sought and closely scanned by the careful broker and speculator. It is in estimating the exact weight to be given to each of such probabilities in affecting the

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price of a given stock that the speculator is said to "discount" the market, and inevitably he makes a larger allowance for the effect of such contingencies upon "active" and undistributed securities than upon those whose earning power such contingencies are likely to affect less seriously.

"Gilt-edged" securities—those suitable for the investment of trust funds—acquire their character because they represent enterprises which are not on the margin of speculative investment. If they are manufacturing enterprises, they are engaged in producing articles of nearly constant demand, only slightly affected by changes in degrees of prosperity. If they are railroads, they are in old and thickly settled sections, where traffic is not likely, even under the most adverse conditions, to fall below the amount required to pay interest or earn dividends. If they are government bonds, as is often the case, they depend upon the element, less distinctly economic, of the good faith and established credit of the issuer, but even here value depends upon the fundamental requirement that the community shall possess the wealth and economic efficiency necessary to pay taxes and maintain a well-balanced budget. In all these cases, such securities may represent a first lien on earnings whose ultimate limit is more or less speculative; but the "gilt-edged" securities will be secured by earnings below the margin of speculation, while the "active" securities will represent the earnings beyond this margin which may fluctuate greatly under varying conditions.

On the side of the supply of floating capital, also, the influences are manifold which may raise or depress the prices of securities. To a certain extent these influences are general in their scope, and affect more or less the "gilt-edged" investment securities as well as those of a more speculative character. Fundamentally, the volume of free capital is disclosed by the rates for the use of money. If what is popularly called "money" is scarce, the interest rate is high; if it is plentiful, the interest rate is low. Under the direct operation of this influence, the prices of stocks should be high when money is low, and should be low when money is high. The influences which operate upon the stock-market, however, are psychological as well as quantitative. Hence it often happens that the spirit of speculation and optimism which accompanies a rising market persists in the face of high rates for money. On the other hand, stock speculation may be at a stand-

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still and prices of securities low while money lies idle in the banks and begs for employment at low rates. The operation of this psychological influence is sometimes felt, therefore, in direct opposition to what would be the mathematical influence of the supply of free capital, and this fact indicates how difficult is the problem of the speculator of estimating truly the future value of securities.

When the demand for money and capital is active, it is because circulating capital is being converted into fixed forms. Men who are saving money are investing it in the extension of the mechanism for making and transporting goods. Under the modern organization of industry and finance, this does not require that each individual with money to invest shall be the operator of a mill or railway. In order to be part owner, with participation in the profits without direct responsibility for the management, he is able to make his investment by buying shares in new enterprises on the stock-market. In prosperous times, the demand for such shares begins to exceed the supply, unless many new enterprises are undertaken.

The fact that new capital is coming into the market seeking investment operates to enhance the price of existing securities as well as to afford a market for new ones. To the investor with capital to spare, it is indifferent whether he buys stock of an old company which is paying dividends or a new company which under assurances of equal safety offers the same return upon the amount invested. In the market the whole body of new capital bids for the whole volume of securities. There is no distinction between the old and the new as such, except as the new securities in most cases are "undistributed," and from being untried may appeal to the speculative element rather than to those who seek a tested "gilt-edged" investment.

The increase in the price of securities is due, fundamentally, to an increase of capital bidding for their ownership. A demand, however, usually creates a supply, and hence the large investment demand results in the creation of new securities, which sometimes have little other warrant for existence. There comes a point at which, even if the proposed enterprises are not distinctly fraudulent or unsafe, the supply of capital for carrying them on is entirely absorbed. The psychological element of faith in a rising market is usually prolonged beyond the point at which the supply

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of capital equals the demand. Capital cannot under any circumstances be applied to new enterprises beyond the amount for which it actually exists; but under our flexible system of credit it may be subscribed, by borrowing, for new enterprises, up to the point where bank reserves are reduced below the point of safety, and by bringing it in from abroad.

When sharp warning is given by impaired bank reserves of the exhaustion of the fund of free capital, the psychological element becomes the controlling factor in the market. The demand for stocks in new enterprises ceases, often very abruptly; these and other stocks fall; the strain put upon the financial resources of new enterprises breaks down the weak, and their collapse arouses fears in regard to others. Hence develop conditions approaching a panic, and the owners of capital are driven by fear from the stock-market. Under such circumstances, not only do stocks fall rapidly in price, but even those considerable accumulations of capital which go on in both good times and bad do not make their appearance in the stock-market bidding for securities. The psychological factor in the problem keeps the new capital in the form of banking credits, and leaves securities to fall to low prices because they are confronted by only a limited demand.

The mechanism through which these conditions are expressed in the money market is complicated, but elastic. It is influenced primarily by the rates charged at the banks for the use of capital. It is influenced also by such banking laws and customs as prescribe definite rates for reserves. A law which imposes unnecessary restrictions on the issue of bank-notes makes it less easy to convert saved capital into transferable form. A law which compels the setting aside of special reserve funds—like the recent requirement imposed by the New York Clearing-House on trust companies as a condition of using the Clearing-House—might reduce materially the amount of capital seeking investment in the stock-market by compelling the trust companies, if they complied with such a requirement, to call in loans to the amount of several times the cash which they were required to set aside. The state of foreign exchange, whether resulting in large offerings of bills, which might place considerable sums for lending at the command of the exchange houses, or compelling the shipment of gold with corresponding contraction of credit, is another factor in determining the movement of circulating capital and the

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prices of securities. Measures of the government in withdrawing money from the market by taxation, or putting it into the market in the form of deposits in banks, are also an important factor in the United States and in some other countries. In Great Britain, when the government wishes to contract the volume of credit, it "borrows from the public," according to the phrase of Lombard Street, by selling treasury certificates and transferring the proceeds to the Bank of England. The Bank cooperates with the government, if contraction is desired, by raising its discount rate and thus preventing the too easy return of the money into the hands of the public.

It is the relation of the gold-supply to credit which reflects the supply of free capital and causes those sudden and sharp changes in the stock-market which are considered by superficial observers as independent of the general conditions of business. If credit has been overstrained by speculation, there comes a time when gold reserves are depleted and energetic steps have to be taken to replenish them. The classical method for doing this is to reduce loans and raise interest rates. Both these steps tend to discourage speculation by making it more difficult to carry securities at a profit on margins. Hence securities are thrown upon the market, already disturbed, radically changing the relations between supply and demand for them. While the stock-market, by means of the arbitrage of securities and the ability to substitute securities for gold in paying foreign obligations, acts in the long run as an effective buffer between gold and goods, yet in so acting it displays a sensitiveness which sometimes leads to a misconception of its functions.

The sensitiveness of the stock-market is due to the fact that it is the market for capital which is free and uninvested. Individuals and institutions having capital which they have not decided to invest in a permanent manner in new mills, new railways, or some other form of fixed capital, hold it in the form of gold coin or banking credits. It is conceivable, and it often happens, that this fund of floating capital changes radically in its relation to the volume of securities in the market within comparatively short intervals. While the number of available acres of real estate in the country is expansible only by the clearing of new tracts, and the capital invested in cotton-mills or iron-mills at any given moment is capable of increase only by the slow processes

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of new construction or improvement of old, so that these forms of capital are comparatively fixed within short intervals of time, the supply of floating capital in a given market may change by ten or twenty per cent., or even more, within a very short interval. Hence it is that values in the stock-market reflect in a most sensitive manner this movement of capital.

A good illustration of sudden changes in the factors of both free capital and confidence is afforded by the experience of the three years 1902-4. During the first year of this period, free capital was constantly coming upon the market, seeking investment. But the supply soon overtook the demand. A surplus of "undigested securities" pressed upon the market in 1903, free capital became scarce, and the public took alarm and began to hoard their capital in the form of banking credits, instead of bidding with it for securities. In the mean time, the scarcity of free capital in the market enabled the banks, which held the money of the public, to exact five and six per cent. upon short-term loans upon notes drawn by those railways which needed the capital to complete necessary improvements. Then came the reaction,—the continued piling up of saved capital by owners too timid to invest it,—until confidence returned in the summer of 1904, and principal stocks advanced more than 20 points within a few weeks.

Under the modern organization of capital, the elastic element in the problem, and therefore the most sensitive, is furnished by the stock-market and the interest rates charged by banks for stock-exchange loans. If stock-exchange loans did not exist, so that banking credits consisted wholly of commercial loans, commercial credit would go through the same tendency to overexpansion as sometimes stimulates credit granted for stock-exchange loans, and would be brought to a sudden halt when it became necessary to replenish reserves and restrict loans. In so far, therefore, as influences which affect stock-exchange prices are ephemeral, the stock-market protects the market for commercial credit against excessive and unnecessary fluctuations. In so far, however, as they reflect a persistent economic tendency, the market for commercial credit and the prices for goods finally follow these influences, but mitigated and attenuated by the transmission of the shock through the markets for stock-exchange loans and for securities.

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If the modern organization of industry included only gold and goods, without stock-exchange securities, then overproduction of goods or the unnecessary multiplication of mills and railways would be reflected promptly in the prices of the goods. If gold reserves became reduced unduly, so that it became necessary to obtain foreign gold, it could be obtained only by the method pointed out by the classical theory of the exchanges,—by reducing the prices of goods. Certain goods most sensitive in price to the foreign demand would have to be exported at a sacrifice, in order to redress the balance of credit to a basis of solvency. This happens under existing conditions if there has been a real overproduction of goods of certain classes or an undue multiplication of the means for creating them. Exports of these classes of goods are increased by reducing their price. This increases the foreign credit balances of bankers, and permits them to obtain gold to restore their impaired reserves.

Through the insurance afforded by the mechanism of the exchanges the process is more gradual and less destructive to dealers in goods than if they themselves had to bear the entire burden of the change in the relations of demand and supply for free capital. Where the rate for money on stock-exchange loans may, under existing conditions, change within a short interval from one per cent. to six per cent., while commercial loans remain substantially unchanged, the merchant would have to face radical changes in the rate for commercial loans and would see the profits upon his products affected in a corresponding ratio. Under present conditions, the sale of securities at a sacrifice in a foreign market tends to restore the equilibrium of credit, where in the absence of securities sacrifice of goods would be required to restore this equilibrium. The burden of risk is thus shifted in large degree from the manufacturer and merchant, who cannot devote their entire time to studying the market for securities and foreign exchange, to brokers and speculators, who are willing to make a profession of studying such risks.

How the interplay of these varied forces determines the movement of surplus capital is the key to the theory of the stock-market and its reason for being. If investments in a given direction are proving unprofitable, they cease to be attractive. New enterprises of a similar character are not inaugurated, because their stocks and bonds cannot be sold. New enterprises of a more

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profitable character, on the other hand, find a market for their securities as soon as they have convinced the public that they meet a public need. Through this mechanism of the stock exchange, therefore, is placed in the hands of the public the determination of the direction in which new capital shall be applied. Inevitably, this determination is not arbitrary. It follows the lines of the greatest profit upon capital. In so doing it follows the lines of the greatest utility of capital to the community. The enterprises which meet wide public demands, whether these are ethically high or not, are those which attract capital because they pay the highest return. Their securities rise in the stock-market. The securities of enterprises which do not meet a public need either find no market from the beginning or decline in price as their lack of earning power becomes apparent.

The speculator who applies intelligence and foresight to the study of market conditions, and is not merely a gambler on chances, aids the community in determining the direction in which capital may be applied with the greatest economy. In a broad sense commercial operations justify the analysis made by Professor Flux:*

"It may be acknowledged that every producer for a future market—that is to say, practically every producer—is to some extent a speculator. He anticipates what will be wanted, at what prices, and in what quantities, and sets to work to provide a supply in accordance with those anticipations. If his anticipations turn out to have been sound, he profits; if otherwise, he loses. The adjustment of the different parts of the productive forces of the society to the satisfaction of its various needs, depends in very great degree on the correct formation of these anticipations."

It is thus through the mechanism of the exchanges that the true relations of supply and demand are revealed to producers. On the produce exchanges and stock-markets are reflected, by fractional fluctuations in prices, the slightest changes in supply and demand, and the reaction of these causes upon one commodity in producing changes in the demand and supply of other commodities. As money permits the measurement of one article against another by price, enabling the relative cost of production and utility of any two or more articles to be accurately compared

* "Economic Principles," p. 158.

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according to a common standard, so the stock-market permits the reduction of all these price comparisons to a common unit of measurement for the operations of stock companies.

The stock-market affords the most sensitive barometer of the operation of the scientific laws of value. On this market are decided the contests between buyers and sellers, which result in the settlement of the price of any particular security at just the point of its marginal value in relation to other securities. The level of prices established represents, upon the whole, all the known facts regarding the value and earning power of any enterprise represented by securities and the average judgment of competent persons regarding its future value and earning power. As the fall in the price of commodities below cost of production is a warning to their producer to diminish his output, so a similar fall in the price of securities of a given class is a warning to their holders that their capital has been unwisely applied, and is a warning to the investing community that future investments of capital should be made in other directions. The stock-market, therefore, affords a daily and sensitive test of the usefulness of enterprises to the industrial community. Under its operation, useless production which might otherwise be continued in ignorance is arrested, and capital is diverted from paths which afford less utility to those which afford the highest utility. "It has been seen," says Professor Pareto, "that bargaining was an operation by means of which the market resolved in practice the equations of production; speculation is an operation by which it is sought to reach in the promptest possible way the solution of these equations."

CHARLES A. CONANT.

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THE MERCHANT MARINE INVESTIGATION.

BY JAMES W. GARNER, ASSISTANT PROFESSOR OF POLITICAL SCIENCE IN THE UNIVERSITY OF ILLINOIS.

I.

THE MERCHANT MARINE COMMISSION.

THE decline of the American merchant marine from a position of maritime supremacy to a position of comparative insignificance is one of the commonplaces of American economic history. It is encouraging to note that at no time since the disappearance of the flag from the high seas, however, has there been more general demand for the revival of the merchant marine than at present. At the last session of Congress, no less than three measures were enacted in the interest of American shipping. One of these requires all supplies for the use of the army and the navy to be carried in American vessels; another extends the application of the coasting-trade laws to all trade between the United States and the Philippines; the third created a commission to consider and recommend legislation for the development of the merchant marine and the amelioration of the condition of those engaged in the seafaring trades.

The law creating the Merchant Marine Commission provided that it should consist of five members of the Senate and five Representatives, to be appointed by the presiding officers of each House, respectively, and that at least four of the ten members should belong to the minority party. Twenty thousand dollars were appropriated to defray the necessary expenses of conducting the inquiry. In spite of the large minority representation allowed on the Commission, and notwithstanding the fact that the purpose of the law was simply to procure information for the intelligent guidance of Congress, the bill encountered fierce opposition and was passed by a narrow majority, after the rejection of an

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amendment intended to prohibit the Commission from making any recommendation which should contemplate the granting of subsidies or bounties. The Commission as constituted consisted of Senators Gallinger of New Hampshire, chairman, Lodge of Massachusetts, Penrose of Pennsylvania, Mallory of Florida, and Martin of Virginia; and Representatives Grosvenor of Ohio, Minor of Wisconsin, Humphrey of Washington, Spight of Mississippi, and McDermott of New Jersey. Beginning on May 22nd, the Commission conducted hearings at New York, Philadelphia, Baltimore and Boston on the Atlantic coast; at Chicago, Detroit, Cleveland and Milwaukee on the Great Lakes; at San Francisco, Seattle and Tacoma on the Pacific coast; and at Washington, Galveston, New Orleans, Pensacola, Brunswick, and Newport News in the South. Altogether, about three hundred persons appeared before the Commission, and either gave oral testimony or submitted written statements. No reflection on the character of the investigation is intended when it is said that nine-tenths of those who appeared before the Commission were advocates of government aid in some form or other. Presidents and agents of ship-building and marine transportation companies; representatives of boards of trade, maritime associations and commercial bodies; importers and exporters, manufacturers, navigation experts and representatives of various maritime trade-unions—constituted the great bulk of the witnesses, and they all had the same story to tell of the disappearance of the American flag from the high seas, of the decadence of the ship-building and shipping industries, and of the unattractiveness of seafaring life under present conditions. In the present article an attempt will be made to describe the present status of the merchant marine, the schemes suggested for its rehabilitation and the arguments advanced in favor of government subsidies by those who testified before the Commission.

II.

PRESENT STATUS OF THE MERCHANT MARINE.

According to the last report of the Commissioner of Navigation, about nine per cent. of the imports and exports of the United States are now being carried in vessels flying the American flag, and a few years ago the proportion was even lower. In 1826, the amount carried was ninety-two per cent. The volume of foreign

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tonnage carried in American bottoms to-day is actually smaller than it was half a century ago. The decline began about 1828, mainly as a result of the abandonment by the United States of the policy of discriminating tariff duties and tonnage dues; it was accelerated by the Civil War, which caused a falling off of about one-half; while various economic causes since the war have contributed still further to reduce the carrying-trade to its present insignificant proportions. In 1903, of 423 steamships sailing out of the harbor of New York for foreign ports only twenty-eight, or about seven per cent., carried the American flag. Two hundred and sixty-five sailed for European ports, only six of which were built in American yards. Seventy-one were bound for ports in Cuba, the West Indies and Mexico, but only a paltry twenty-two were of American registry, notwithstanding the fact that the carrying-trade of these countries should naturally belong to the United States by reason of their geographical proximity. No vessel carrying the American flag cleared for an Asiatic, an African or a South-American port. The record of other large port cities of the United States is equally discouraging. Last year, of 50,000,000 bushels of grain exported from the port of Baltimore, not over 10,000 bushels were carried in American bottoms. In the year 1901, of ninety-two cargoes of wheat exported from Tacoma, only two small cargoes of 10,000 bushels were carried in American vessels. The bulk of it was carried by British, German, Norwegian, Russian and Italian ships. Illustrations of this character, showing the comparative insignificance of the American carrying-trade might be multiplied indefinitely. The Hon. John Barrett, Minister of the United States to Panama, testified before the Merchant Marine Commission at Chicago (Hearings, vol. II., p. 682) that, in the course of a recent journey around the world, he travelled 75,000 miles, including side trips, without seeing a single large American merchant vessel engaged in interocean traffic, although he saw in every port visited the flags of England and Germany, and in many of them the flag of Japan.

With the decline of the carrying-trade has gone the decay of the ship-building industries. Nearly every ship-builder who appeared before the Merchant Marine Commission stated that, if it were not for the Government work he was doing, his yards would be practically idle. Cramp's, the largest ship-building concern in

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the United States, which ordinarily employs 8,000 men regularly, was reported in July, 1904, to be running with only about 2,000 men. The president of the New York Ship-building Company of Camden, New Jersey, stated that his yards were running with a greatly reduced force, and he asserted that, unless new work could be found at an early date, it would be necessary to discharge all his men. Mr. Sewall, of the firm of Arthur Sewall and Company, Bath, Maine, one of the oldest and at the present time the largest concern in the country for the construction of sailing vessels, declared that his plant was the only survivor of a long line of ship-building establishments which had made the city of Bath famous for a hundred and fifty years, and, what was worse still, his yards had been practically closed down for more than a year for lack of orders. Substantially the same story was told by the representatives of various other ship-building concerns: shipyards practically idle for want of work, others actually closed down, others in the hands of receivers, still others kept open mainly because of Government work, which, according to the testimony of Rear-Admiral Bowles, none of them could honestly be doing for the price paid. None of them is building ships for the foreign market; indeed, since 1901 not a single keel has been laid in an American shipyard for a steel sea-going vessel.

III.

REASONS ALLEGED FOR EXISTING CONDITIONS.

As to the causes which are responsible for existing conditions, there was a substantial concurrence of opinion among those who testified before the Commission. In the first place, it was shown beyond question that it costs more to build ships in American yards than it does abroad. This is due to two causes, namely, the high price of ship-building material in this country, and the high wages paid for labor. As a result of the operation of the protective tariff, the American ship-builder at the present time is compelled to pay from $35 to $40 per ton for steel plates which cost the English builder on the Clyde but $27 per ton. It is true that, under existing laws, the American builder is allowed to import free of duty steel intended for use in the construction of ships for the foreign trade; but, on account of the practical difficulties involved, it has not generally been found expedient to take advan-

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tage of the privilege, and, consequently, American builders have preferred to use the higher-priced American steel. Where imported steel is used there is always the danger of delay, which in the case of some contracts may be fatal; there is also the possibility that the plates may be bent and distorted in transit; and, more important still, no ship constructed wholly or in part of foreign material can be used in the coasting-trade. Now, it frequently happens that, in dull seasons when foreign trade is light and freights low, it is desirable to transfer vessels temporarily from the foreign service to the coastwise-trade until conditions have improved. Consequently, the demand for vessels which cannot be so transferred upon emergency is considerably lessened. The testimony of the ship-builders was unanimous, that the cost of materials ranges from forty to fifty per cent. higher in America than in Europe. Mr. C. H. Cramp testified that in the construction of a 12,000-ton ship the American handicap under this head alone was not less than $150,000.

Likewise, the cost of labor in American shipyards is from thirty to sixty per cent. higher than on the Clyde or in the Scandinavian yards. Some of the ship-builders who testified even asserted that the difference was as much as eighty per cent., or even one hundred per cent., in some cases, while none of them put it below twenty-five per cent. Many instances were cited in proof of these statements. Thus, at the Union Iron Works of San Francisco, machinists receive an average of $19.38 per week; the average pay of machinists in twelve British yards is $9.69 per week. The weekly pay of boiler-makers in the two countries is $19.74 and $9.36, respectively; and of ship-carpenters $22.14 and $9.88, respectively. The following table of comparative wages of crews for a 4,000-ton tramp steamer in 1898 was put in evidence:

	English.	American.
Captain	$100	$200
Mate	60	90
Second mate	40	75
Third mate	30	60
Chief engineer	80	150
Second engineer	60	90
Third engineer	40	75
Total	$410	$740

The extent of this handicap is more easily appreciated when it is remembered that the cost of labor amounts to from fifty-five

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to seventy-five per cent. of the total cost of construction, according to the type of the ship. Of course, the increased cost of labor in American shipyards is to some extent offset by the superior skill of the American workman and the larger output of his labor, although this was denied by Mr. Cramp and other builders.

Taking the cost of material and labor together, it appears from the testimony that the total expense of construction in American yards is from thirty to fifty per cent. higher than in foreign yards. One well-known ship-owner, who asked for tenders for the construction of a 7,000-ton tramp steamer, stated that the best offer made by an American builder was more than twice as high as the best British offer. An owner of steamships on the Pacific Ocean asked for tenders for the construction of a foreign steamer. The best American offer was $380,000, whereas a ship-builder on the Clyde took the contract for $200,000 with thanks. Many other instances of this character are to be found in the several volumes of testimony taken by the Merchant Marine Commission.

Finally, the foreign builder possesses an advantage over the American builder in the fact that his business is "standardized." The demand in Europe for ships is so large that it has been found possible to restrict the work of a single yard to the construction of ships of a particular type, thus effecting a gain in both time and skill. One yard builds large cargo steamers; another, high-speed vessels; another, torpedo vessels; another, small craft; and so on. In the United States, the volume of business has not been large enough to permit of this specialization, and, as a consequence, it is not an uncommon spectacle to see in one yard a battle-ship, a cruiser, a light-ship, a tramp steamer and maybe a dredge or a ferryboat all under construction at one time.

The position of the American ship-owner, if we may believe the testimony, is but little if any better than that of the ship-builder. In order to secure American registry, he must buy his ships from the American yard and pay the high price which the American builder is compelled to charge. Even if it were otherwise and he were allowed to buy in the foreign market and operate under American registry, he would still be unable to compete successfully with the foreign carrier for two reasons: first, because it costs more to man and victual a ship under the American flag than it does under any other, and, second, the foreign carrier is

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frequently aided by a subsidy or other grant from his government. The testimony of the shipping interests was practically unanimous that the extra cost of operation was not less than thirty-three and one-third per cent., while some asserted that it was much more. Thus, whereas the average pay of sailors under foreign flags ranges from $16 to $20 per month, it is from $25 to $35 under the American flag. To give a few illustrations: The master of the American steamship "Pleiades" receives $200 per month, while the corresponding officer on the British steamer "Masconomo" receives $121 50. Taking the average pay of the entire crews of the American liner "St. Louis" and the "Kaiser Wilhelm der Grosse," we find it to be $29 75 per month in the case of the American vessel and $15 43 in the case of the German steamer. Other illustrations, almost without limit, could be cited.

It is a singular fact that foreign sailors refuse to serve under the American flag except at American wages, although the accommodations on American vessels are acknowledged to be superior to those of foreign ships. A Swedish or Norwegian sailor will ship under his own flag for $14 or $15 per month, but he demands $25 or $30 for service on an American vessel. One of the shipowners who testified before the Commission stated that he once operated a Norwegian and an American vessel on the same line, both vessels sailing from the same port and being engaged in exactly the same service. Ascertaining that the crew of the Norwegian vessel was receiving only about half the wages of the American crew, he determined to try to ship a crew for the American vessel at the Norwegian scale of wages; but he found that the sailors positively and unhesitatingly declined to serve on the American vessel for less than the American scale of wages. Another ship-owner who operated in the same line vessels under both British and American flags had a similar experience.

The cost of operating vessels under the American flag is further increased by the requirement of the law that all officers above the rank of "watch" shall be American citizens, that only licensed mates shall be employed and that no payment of advance wages shall be allowed. Vessels under foreign registry are allowed to pick up crews wherever they may be found, without restriction as to allegiance or qualification; and, by paying a month's wages in advance it is possible to secure them at less wages than the American carrier has to pay. Nevertheless it is

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still cheaper to employ foreign crews, and so far as the law permits this is frequently done despite its alleged un-Americanism.

Other ship-owners have preferred to forego the advantages of American registry and have transferred their vessels to foreign flags, in order to find relief from the illiberal navigation laws of the United States, and more especially to be able to secure crews at the foreign rate of wages. This was the case, for example, with the American Steamship Company, whose vessels were built in American yards and operated under the American flag, "until driven therefrom," says its president, "by the overpowering competition of foreign built and manned vessels."

Finally, if the cost of construction and operation were equalized, either by legislation or change of economic conditions, the American carrier would still be at a disadvantage, on account of the substantial aid which his foreign competitor receives in the form of subsidies or bounties. The governments of at least six competing nations aid their merchant marine by the grant of subsidies in one form or another. As far as can be ascertained, the amount is distributed annually about as follows: Great Britain, $6,000,000; France, $8,000,000; Germany, $2,000,000; Italy, $2,800,000; Austria-Hungary, $1,700,000; Japan, $3,492,-000. In competition with ships thus constructed out of low-priced material and constructed and operated with cheap labor, and which are, in addition, the recipients of government subsidies, American vessels have, of course, made a poor showing. This is well illustrated by the course of the Trans-Pacific trade, which a few years ago was carried mainly in American bottoms. Then came a fleet of subsidized British, French and Japanese ships into the Pacific Ocean; the freight rates on wheat, and other products, were cut to a point below the cost of operating American vessels, and the latter were consequently driven from the field. In the same way British, Swedish and Norwegian vessels have secured the carrying trade in sugar and fruit between the United States and the West Indies.

IV.

REMEDIES SUGGESTED.

The testimony of the shipping interests was practically unanimous that the only effective means of restoring the merchant

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marine was some kind of legislation which would bring about an equalization of the cost of construction and operation and, in addition, counteract the effect of the foreign subsidies. There was, however, a wide diversity of opinion as to what form such legislation should take. The more important schemes suggested were the following: removal of the tariff on all ship-building material; the admission of foreign ships to American registry ("free ships"); discriminating tariff duties and tonnage dues; and direct aid from the Treasury in the form of subsidies or bounties. It is purposed to explain briefly these several schemes in the order mentioned.

1. *Free ship-building material.* Under the existing tariff law, steel is shipped to England and sold there at $10 or $12 per ton less than the price for which it can be bought in the United States. It is true, however, as already stated, that a rebate is allowed on steel imported for use in the construction of ships for the foreign service; but, on account of practical difficulties, ship-builders have not generally found it expedient to avail themselves of the privilege. It is claimed by some builders that, if steel for ship-building purposes were placed on the free list, there would be a decided reduction in the cost of domestic steel, thus making it possible for the American builder to construct ships at less cost both for the coasting trade and the foreign service. The most ardent advocate of this scheme was Mr. Lewis Nixon, president of the New York Ship-building Company. Admiral Bowles, president of the Fore River Steamship Company, however, did not attach much importance to it, and asserted that the advantage to be derived would be inconsiderable, although it might, he said, lead to a more general use of steel ships in the coasting trade. And this was the general opinion of those who expressed themselves on the subject.

2. *"Free Ships."* According to this scheme, the American carrier is to be allowed to purchase ships in the foreign market and operate them in the foreign trade under American registry, leaving to American yards the monopoly of constructing ships for the coasting trade. Of course, there is nothing in the law at present to prevent citizens of the United States from purchasing ships in the foreign market and operating them in the foreign trade, provided such vessels are sailed under a foreign flag; and, as the cost of operation is less under the foreign flag, some have done so.

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Several serious objections were urged against the "free ship" policy. In the first place, it was the overwhelming testimony of the ship-builders that the admission of foreign-built ships to American registry would result in the ruin of American yards. The American carrier would buy abroad in the cheapest markets, leaving to the home builder only the construction of vessels for the coasting trade. The only possible benefit that he could derive from such a policy would be an increase in the amount of dry-docking and repairing which might come to his yard in consequence of the enlargement of the merchant marine. At present, most of the foreign-built ships owned by Americans are docked and repaired in their home ports, where the cost is lower; but, if admitted to American registry, this work might be required to be done in American yards. The second objection urged against the "free ship" scheme was that it is insufficient in itself to restore the merchant marine. With cheap ships the American carrier would still be handicapped, as compared with his foreign competitor, by the extra cost of operation and the effect of the foreign subsidy. Even if it were otherwise, the merchant fleet thus created would consist of American ships only in name and registration. Its only value would be the encouragement which it might give to the "ship-owning habit." Nevertheless, several large ship-owners—notably, Mr. James J. Hill and Mr. F. W. Taylor—were of the opinion that the "free ship" policy would be effective, although Mr. Hill doubted the wisdom of such a policy and preferred another plan, while Mr. Taylor coupled his statement with certain conditions.

3. *Discriminating import duties and tonnage dues.* According to this plan, it is proposed to levy a discriminating tariff on all goods imported into the United States in foreign vessels, or a discriminating tonnage duty on such vessels, or both. It is a proposition to return to the policy followed by the United States before 1828, when nine-tenths of the foreign trade of the United States was carried in American vessels. The ship-builders and ship-owners were at one in the opinion that it would be the means of transferring the bulk of the carrying trade to American vessels; but a good many opposed it on account of the practical difficulties likely to arise in carrying out the scheme. To begin with, the United States under the act of 1828 has entered into maritime reciprocity treaties with some thirty-odd countries, whereby it has re-

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nounced the right to lay discriminating duties on goods imported in the ships of such countries. True, the government has the right to denounce these treaties and to terminate them upon one or two years' notice, but there is a strong belief that abrogation by the United States at this time would lead to retaliations, possibly to international complications and a general unsettling of our commercial relations. Apart from these possible dangers, there is the practical difficulty of equitable apportionment. Such a form of aid operates very unequally upon different ships, since it does not take into consideration the length of the voyage or the nature of the cargo. The rebate on a cargo of tobacco from Cuba would be the same as on one from the Orient. The amount on a cargo of cement, as compared with one of silk, would be insignificant. Moreover, forty-four per cent. of the goods imported into the United States are non-dutiable. American vessels bringing such cargoes would have no advantage over their foreign competitors. It would be necessary, therefore, to abolish the free list, and impose a duty on all goods imported in foreign vessels. But, as the bulk of the imports now on the free list are raw materials, the proposition to tax them for the benefit of the merchant marine would be certain to encounter strong opposition. A modification of this plan, which has found much favor with the maritime classes, provides for the application of the discriminating feature to the indirect carrying-trade only. That is to say, it would apply only to goods imported in foreign vessels from countries other than those whose flags they carry. This plan would be less open to international objection, and would probably transfer to American vessels practically all the carrying-trade between the United States and those countries that have no shipping of their own—such as the West Indies, the Latin-American States and some of the Oriental countries. Evasion of the law upon the part of foreign carriers by the transfer of flags could easily be provided against. Among the ship-builders who urged the policy of discrimination as regards foreign vessels engaged in the indirect trade, was Mr. Charles H. Cramp, who thought it would be one of the best means of reviving the merchant marine—better, in fact, than direct subsidies, since it would excite less popular hostility, and would therefore be more likely to be retained permanently. The scheme has also been advocated by a number of the Republican leaders in the Senate; it received the endorsement of

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fourteen Republican State Conventions in 1896 and of the Republican National Convention of the same year, and it was favored by Mr. McKinley in his first letter of acceptance. It seems, therefore, to be the most generally approved plan which has been suggested.

4. *Direct Subsidies or Bounties.* The advocates of this plan propose to restore the merchant marine by means of direct grants, in some form, from the national Treasury. It is, of course, in great favor with the ship-builders and ship-owners. For the protection of the ship-builders they would give a construction bounty on ships built in American yards and intended for the foreign trade only. For the protection of the ship-owner and operator, a subsidy equal at least to the difference between the cost of operation under the American and foreign flags is proposed. Others would allow no bounty directly to the builder, but would pay the entire amount to the ship-owner. The Maritime Association of New York urged the extension of the postal subsidy act of 1891, the rate of compensation thereunder to be determined on the basis of gross registered tonnage, speed, design of construction and mileage sailed. In addition, it proposed a general tonnage and mileage subsidy to owners of freight-vessels engaged in the foreign trade. This was essentially the plan embodied in the Hanna-Payne and Frye bills, and is the one most strongly advocated by the ship-building interests. Mr. James J. Hill, of the Great Northern Steamship Company, was apparently the only ship-owner of note who thought that subsidies were wrong in principle and a species of favoritism. Moreover, he was of the opinion that, unless the amount of the subsidy was very large, and unless there was assurance of permanency, it would be unavailing. Mr. Hill's own plan was a bounty on exports shipped in American vessels or an export tonnage duty, neither of which, it would seem, differs in principle from the other form of subsidy which he regarded as so objectionable. The export bounty was also urged by the presidents of the Downey-Townsend and the New York Ship-building Companies, the latter insisting that the bounty should be allowed wherever a voyage was made, even though the ship carried no cargo on its outward trip, and irrespective of whether it was a sailing or a steam vessel.

The report of the majority of the Commission presented to Congress on January 5th recommended a combination of several of the

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above-mentioned schemes, namely: an operating "subvention" of $5 per ton annually, an extension of the postal subsidy act of 1891 so as to apply to the carrying of the mails to the Latin-American countries and the Orient, and a tonnage tax on foreign vessels entering the ports of the United States. The amount of the subsidy as estimated by the Commission is not to exceed three million dollars for the first year, and a considerable portion of this is to be devoted to the payment of naval volunteers and apprentices. The minority members of the Commission made a separate report recommending discriminating import duties and a reduction of the tariff on ship-building materials which, it declared, was the greatest impediment to the shipping interests of the country.

VI.

ARGUMENTS FOR GOVERNMENT AID.

The main arguments presented to the Commission in support of legislation for the revival of the merchant marine may be grouped under three heads. To begin with, it is asserted that the transportation of American imports and exports in American bottoms would mean an annual saving of about $200,000,000 now paid to the owners and operators of ships flying foreign flags. Most of this amount goes abroad, and thus constitutes a large drain on the resources of the country, whereas it might as well be kept at home and turned into the pockets of American ship-builders, ship-owners and seamen. In the next place, it is contended that the rehabilitation of the merchant marine would be the means of extending American trade, through the opening of new channels of commerce and the discovery of new markets. A large merchant marine will mean greater competition and, hence, lower transportation rates. It will mean the establishment of new lines of steamers between the United States and parts of the world where the American flag is now rarely seen. To take a single illustration, our exports to South America are only about one-third of our imports, a condition mainly attributable to the lack of first-class steamship lines between the United States and those countries. There is not a single first-class line of American steamers between the United States and Buenos Ayres, although there are half a dozen lines between that port and European ports. The result is that the bulk of the imports of lower South America

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come from Europe and not from the United States. Lastly, and this is the most important argument of the subsidy advocate, the national defence requires the rehabilitation of the merchant marine. However powerful the navy may be in point of battleships, it is useless without colliers, transports, scouts, despatch vessels, etc. Is it not poor economy, the subsidy advocates ask, for the Government to build these auxiliary vessels and maintain them in idleness when, by suitable encouragement, private capital may be induced to build them under conditions which will make them easily convertible into war-vessels at slight expense, and available for the use of the Government upon the outbreak of war? If they are neither constructed by the Government for the use of the navy, nor liable to impressment from the merchant marine, the Government will be compelled to depend upon purchases in the foreign market. The impolicy of this was shown at the outbreak of the war with Spain in 1898. The Government was compelled to hunt the seas for transports and colliers, and, after considerable anxiety and delay, it succeeded in purchasing or chartering some forty ships from foreign nations. The American vessels liable to impressment under the mail subsidy act were taken over by the navy without delay, but the number was inconsiderable. One line, which is a beneficiary of the mail subsidy to the extent of $200,000 per year, furnished the government with nine vessels and 500 seamen.

Besides furnishing the navy with auxiliary vessels, the merchant marine serves as a nursery of seamen. Whether built at home or purchased abroad upon emergency, war-vessels must be manned by experienced and trained seamen. Unlike volunteers for the army, they cannot be drawn from the farm, the shop or the mine by proclamation. The weakness of the United States in this respect is well known. More than half of the seamen who sail under the American flag are foreigners, and only about sixty per cent. of those who owe allegiance to the flag are native-born.

To recapitulate, then, the grounds relied upon by the advocates of subsidies are the extension of American commerce, the saving of freights on the foreign trade, an enlargement of the opportunities for American capital and labor and the security of the national defence. Largely as a result of the protective tariff system, this country leads all others in manufacturing and in the quantity and value of its exports; while, mainly through neglect or

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unwise legislation, it stands near the foot of maritime nations. It is time to inquire whether the party of protection is not guilty of gross inconsistency when it maintains the protective system as regards manufacturing, but permits free trade in navigation; when it protects the American factory-owner, but denies the same protection to the American shipyard by permitting the foreign ship to compete on equal terms with the American vessel in the transportation of American products; and when it makes it possible for the American steel trust to furnish the English ship-builder with ship-building material at one-third less than the price the American has to pay. It now seems clear that Americans can no longer build and operate ships profitably, under the existing laws, in competition with foreigners. It lies within the power of Congress to change these conditions to a large extent. The relief need not be in the form of subsidies or bounties. The removal of the tariff on ship-building material, the abolition of the restrictions with regard to the employment of seamen, possibly the freedom of purchase in foreign yards, certainly discriminating duties or tonnage dues, are some of the remedies short of direct grants from the Treasury. The subsidy scheme is too objectionable—in the popular mind, at any rate—to make its adoption a permanent feature of American policy; and, besides, there are practical difficulties in the way of its equitable administration. The hearings of the Merchant Marine Commission show that there are still some who question the constitutionality of such legislation. In these days, however, when at one session Congress votes half a million dollars to exterminate an insect in one of the States, and sets aside $750,000,000 for the irrigation of arid lands in certain other States, and at another makes an outright gift of $5,000,000 to an Exposition Company; when it votes $60,000,000 at one session to improve rivers and harbors; and when it grants bounties on the production of sugar and on the taking of fish, it is hardly likely that its right to appropriate money for the upbuilding of the merchant marine, with a view to extending American commerce and securing the national defence, will be seriously questioned on constitutional grounds.

JAMES W. GARNER.

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LANCELOT, GUINEVERE AND ARTHUR.

BY JULIA MAGRUDER.

A RECENT writer, in contemptuous vein, has said: "To some men and to all women, the marriage ceremony is marriage."

And, surely, this contempt is justified; for what reasoning human being could hold or defend such a definition of marriage? Yet, in a recent re-reading of the "Idylls of the King," the writer has been forced to the admission that our most Christian poet, Tennyson, accepted the definition of marriage here ascribed to the weaker sex and the weaker members of the stronger sex!

When we stop to think of it, or, rather, *if* we stop to think of it, which few do, it immediately becomes clear that the marriage ceremony is only a small part of the bond—the mere outward and visible sign of an inward and spiritual state. Like the coronation of a king, it only declares to the world a fact which already exists. If the man were not a king already, the putting on of the crown could not make him one. So, also, if the bond and agreement between a man and woman have not constituted a marriage, the ceremony—be it civil or religious—is powerless to do so, in any sense beyond the legal form, designed to operate for the good of the state, in the legitimizing of children and the inheritance of property.

Every reasonable being must concur in this estimate of marriage and repudiate any other. Yet Tennyson, in the two Idylls, "Lancelot and Elaine" and "Guinevere," has drawn a picture which, if it means anything in the way of ethical teaching, means that, in marriage, the letter is everything—the spirit nothing; that the form is the essential part, and the sentiment the non-essential.

No one could deny to Tennyson the possession of mental integrity; but, in this instance, has it not played him a trick? No

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one doubts that, when he wrote so eloquently the story of the three beings, through whom came both the glory and the downfall of that high exposition of chivalry and Christian graces known as "The Round Table," he was unconscious of any disloyalty to truth's standard. We, therefore, willingly concede the point that Tennyson was honest, in his day and generation.

But in the years that have elapsed since these Idylls were written, the world has moved onward; and, although we cannot say that it has been always in the direction of spiritual progress, what we do maintain is that an honest prose statement of the character and conduct of the three individuals referred to, leads to the conclusion that, had Tennyson written these famous poems in even the first years of the twentieth century, that quality of integrity of mind of which we have spoken must have constrained him to a different presentation of the narrative of the lives of Lancelot, Guinevere and Arthur—a presentation such as the more intelligent part of the reading public of to-day might find rational and acceptable.

In considering the passages which describe the meetings of Lancelot and Guinevere, and of Arthur and Guinevere, and the consequences which resulted therefrom, one is constrained to wonder how the poet's conclusions, drawn from these premises, have passed unchallenged so long.

To this the only answer seems to be that Tennyson, although he wrote, it may be, for all times, wrote according to the influences of the time in which he lived.

Would any creditable writer of to-day venture, in common, up-to-date prose, to hold up the circumstances and conduct of these two men and this woman for such an allotment of praise and blame as was meted out to each by Tennyson?

Let us state the case in its simplest terms: Here we have three people—Arthur, the perfect King, conceded to be without spot or blemish or any such thing, holding up to his Knights, by precept and example, the highest possible standard of living; Guinevere, young, beautiful, innocent, made for the love and worship of men; and Lancelot, bravest, most powerful, and also most courteous and gentle of Knights.

Guinevere, having been "given in marriage" to Arthur, whom she had never seen, has no other thought in her mind but to be a true and loving wife to him. Lancelot, the King's emissary, to

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bring his bride to him, has no thought but loyal obedience to the service of his liege lord, and loyal honor and respect to the lady henceforth to be his Queen. Before the royal pair have even met, Guinevere has felt within her the stirrings of the strong primitive attraction which reveals love to her in such an aspect as she had not hitherto conceived of. Lancelot, older and less unconscious, feels the same stirrings of his heart toward Guinevere, and sees in her the one woman. For there is nothing to contradict—indeed, there is everything to support—the idea that the love of Guinevere for Lancelot and the love of Lancelot for Guinevere were, both ideally and actually, the supreme loves, of both their lives. Between them stands her obligation to Arthur, as her King and husband, and his obligation to Arthur as his liege lord and sovereign—obligations stronger in those days, even, than in these.

Guinevere, compelled by the exigencies of the situation, marries Arthur, with the image of Lancelot filling her mind, as the love for him fills her heart; and Lancelot looks on at the marriage, feeling his hitherto untainted loyalty to the King clouded by a forbidden jealousy.

Time passes. Lancelot, the "peerless Knight," the "flower of bravery," equally brave and tender, equally loving and daring, shows continually before the Queen such qualities of mind and graces of spirit, such deeds of prowess and of valor, as furnish a reasonable and honorable foundation for the sentiment already kindled in her heart. Add to this the fact that Arthur bored her —which is simply the prose translation of the following words:

> "That passionless perfection, my good lord"—
> "He is all fault who has no fault at all"—
> "A moral child, without the craft to rule;"

and consider also that her name was continually joined to that of Lancelot ("Lancelot, the flower of bravery, Guinevere, the pearl of beauty"), and any one who wonders that "the trouble grew and stirred" must be without the power of logical deduction.

So far—as, perhaps, all will agree—no harm was done. It was only the inevitable that had happened. "But"—the moralists will say—"it should have stopped there." Perhaps it should. We will not challenge that conclusion.

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We turn now from the dual problem of Lancelot and Guinevere, to that of Arthur and Guinevere. To the former, she is bound by every tie of natural instinct, spiritual selection, intellectual judgment and a heart preoccupied by his image before she had so much as seen the King—the heart's affection based upon the mind's approval. Lancelot is *what* she likes, no less than *whom* she likes. She yields to him the supreme love of her heart, and knows that he has endowed her with a like great gift. So much for her bond to Lancelot.

To Arthur, there is but the legal bond—the shell from which the kernel has been given to another. Granting the value and obligation of this bond, must we concede it to be all, and the other nothing? This, unquestionably, is Tennyson's conclusion. The whole trend and teaching of these poems is to the effect that the legal bond—the marriage ceremony—constitutes marriage, and, further yet, marriage which holds good for the world to come as well as for this world, even though, as in the present case, the mind, the soul, the will, the affections, all turn the other way.

Arthur undoubtedly takes this position, but there again we may make large concessions to the influences of the times. Also—though with far less reason—we are willing to concede something, on the same lines, to Tennyson. But what we do not feel warranted in conceding is, that this ideal of marriage should hold with the men and women of to-day.

Much is said and written now upon the subject of divorce, and much there is to say, on the side of the state, against the man or woman who seeks to break the legal bond of marriage. Perhaps, of all these arguments, the strongest is that of necessity. The law *must* hold a man and woman together, for the reason that love will not. But for this fact—the impermanence of human affection—which every day confronts us, Love and not Law might be conceded to constitute the marriage bond. But stern necessity compels us to recognize the fact that this obligation too rarely holds to be established as a precedent. Therefore—in the present age of man, at least, we are compelled to respect the legal bond.

The legal bond, yes—but the mere legal bond, no!—and when Tennyson pushes it to the point of assuring, without doubt or hesitation, that this will be the one which will prevail in the eternal hereafter, even his beautiful poetry does not save the situation from an element of the ridiculous. Remember that

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Arthur is speaking to a woman who, by his own admission, had never loved him ("I cannot touch thy lips, they are not mine but Lancelot's—nay, they never were the King's"), when, in taking his last farewell of Guinevere, he holds out to her this remote, but glorious, possibility:

> "Perchance and so thou purify thy soul,
> And so thou lean on our fair father, Christ,
> Hereafter, in that world where all are pure,
> We two may meet before high God, and thou
> Wilt spring to me, and claim me thine, and know
> I am thy husband—not a smaller soul—
> Nor Lancelot, nor another."

And what, we are led to ask, is the ground on which Arthur declares Lancelot to be a smaller soul than he? And what the ground on which Tennyson accepts, and would have us accept, this dictum? Does the mere fact of chastity overbalance and outweigh the proofs of the soul's greatness which Lancelot continually gives in his fealty to Guinevere? And, even so, what of the evidences of this same virtue given by Lancelot, in the following passage (but one of many proofs) which describes a scene between "Lancelot and the exquisite Elaine"?

> "Then suddenly and passionately she spoke,
> 'I have gone mad. I love you. Let me die!'
> 'Ah, sister,' answered Lancelot, 'what is this?'
> 'Your love,' she said, 'your love—to be your wife!'
> And Lancelot answered, 'Had I chosen to wed,
> I had been wedded earlier, sweet Elaine,
> But now there never will be wife of mine.'
> 'No, no,' she cried, 'I care not to be wife,
> But to be with you still, to see your face,
> To serve you and to follow you through the world.'"

Lancelot's firm denial to Elaine is only one more proof of his loyalty to the Queen and to his highest self—indeed, legal or illegal, it would be hard to find an example of a more unselfish, delicate and faithful lover. He was "love-loyal to the least wish of the Queen," even when she decreed that he should leave her. And even when he said: "I needs must break these bonds that so defame me," he added, instantly: "Not without she wills it."

The poem ends with the words:

> "So groaned Sir Lancelot, in remorseful pain,
> Not knowing he should die a holy man."

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Tennyson's reasoning in all this—making Arthur a holy man, because, *per se,* he was a chaste one, and Lancelot an unholy man because he had not the chastity which consists in fidelity to the legal bond—seems to elevate the latter so far above the spirit that all sense of due proportion is lost. There is little doubt that the world needs teaching as to the responsibility of the marriage bond; but, when Tennyson delivers this lesson of eliminating from the question all consideration of the obligations of love, respect, affection, and the behests of mind and soul, he goes so far to the other extreme as to class himself with those who regard the marriage ceremony as marriage.

In conclusion, it seems not inappropriate to quote two verses, read somewhere in a magazine, years ago, and, for some reason, never forgotten:

"Two ghastly shapes, in veils of mist,
For longer years than both could tell,
Bound by a stern gyve, wrist to wrist,
Have roamed the ranks of Hell.
"Their sad eyes know each other not,
Their cold hearts hate the bond so drear:
Yet one poor ghost was Lancelot,
And one was Guinevere."

This poem would, no doubt, have been regarded by Tennyson as entirely serious and just; but, for the men and women of to-day, is not its chief effect to revive childish and shivery impressions of "the bad place and the bogey-man"?

JULIA MAGRUDER.

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THE INTERNATIONAL ASPECT OF OUR TARIFF SITUATION.

BY N. I. STONE, TARIFF EXPERT IN THE BUREAU OF STATISTICS.

WITHOUT going into a discussion of the respective merits of high and low duties, we may state without fear of contradiction that the chief impulse to the present demand for tariff revision has come from that section of our business community, both manufacturers and merchants, who are interested in foreign trade. The speech delivered by the late President McKinley at the Pan-American Exhibition in Buffalo, which may be said to mark the formal opening of the campaign for tariff revision, emphasized this point. "What we produce beyond our domestic consumption," he said, "must have a vent abroad. The excess must be relieved through a foreign outlet, and we should sell everywhere we can and buy wherever the buying will enlarge our sales and productions, and thereby make a greater demand for home labor."

It is this state of affairs—namely, that our industry, as a result of the giant strides made by it in the last two decades of the nineteenth century, has reached the stage where the foreign market is a *necessary* part of its normal outlet—that constitutes the pivotal point of our present tariff situation. In shaping our tariff policy heretofore, the problem our statesmen had to solve was how to secure to our own manufacturers our great home market. The problem henceforward will be how to insure to American industry and commerce the greatest possible share of the world's markets, while surrendering as little as possible of the home market to foreign exploitation.

Hardly any one will question that the McKinley and Dingley tariffs helped the American manufacturing industry to reach the high degree of perfection with which it is credited by the consensus of opinion among the leading engineers of the world. It

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will also be admitted by the advocates of lower duties, as well as by those of a high tariff, that by securing to the American manufacturer perfect immunity from foreign competition at home, as the two tariffs have done, they enabled him to reach out with success for a share of that very foreign trade for the sake of which our government is now asked to modify the tariff. Here we touch the very heart of the problem as it now confronts, not only the business interests, but the greater part of the American people.

I.

While we were busy putting up high walls around our national frontiers to keep out the foreign invader, the latter, for similar reasons, has been engaged in the same work at home; and the entire continent of Europe, with the exception of Holland, has been fenced off in the last fifteen years with higher walls than ever before separated the different nations of that continent in the history of modern trade. France, Germany, Russia, Italy, Switzerland, Spain and Portugal—each has introduced a high protective system, which has been raised higher and higher as one country tried to meet the repeated assaults of the other against one or other of her own industries.

In the course of that development, which has brought with it a new species of international conflict, the so-called "tariff-war," the commercial nations of the civilized world have worked out new or perfected old methods of regulating international trade. All of these methods are merely different adaptations of the best means available to a nation for protecting her economic interests against her neighbors.

As each nation succeeded in mastering the policy of tariff-protection, effects of its action were felt more and more by the rest. As a result, tariff matters have become conspicuous elements in diplomatic negotiations among nations. The once simple tariff, in the form in which we still have it, consisting of one set of duties levied on various articles of commerce, has, in most countries, given way to more complex forms, such as maximum and minimum tariffs, general and conventional tariffs, supplemented by such accessories as surtax, retaliatory duty, countervailing duty, etc.

So far, the United States has managed, on the whole, to hold aloof from the entangling meshes of those European innovations,

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and holds on to its single protective tariff. As the time is fast approaching, however, or, rather, has already come, when the leading European nations, and, what is more to the point, *our chief customers,* are recasting their tariffs and revising their commercial treaties, it behooves us to review the situation, so that, in the light of conditions, and not theories, actually confronting us, we may be in a position to grasp, in all its bearings, the problem now facing this country.

II.

The two leading nations of the European continent, France and Germany, have each worked out a tariff system of its own, the object of which is to secure the maximum of concessions abroad to their export trade, with the minimum of admission of foreign competition in the home market. The French use a double, or maximum and minimum, tariff, while the Germans adopt a single tariff like ourselves, or, as they call it, a general tariff; and then, by separate treaties or "conventions" with different governments, they modify various schedules in their tariff in exchange for equivalent concessions to their own trade. The reduced rates thus granted constitute their so-called "conventional" tariff.

In the French system, most of the tariff schedules are supplied with two rates of duty, the difference between the two being all the way from about 15 to 75 per cent., and even more in a few cases. The higher or maximum rate is regarded as the general rate applicable to the importations of any country, in the absence of a special understanding to the contrary. The lower or minimum duty is granted to nations giving similar concessions in exchange.

We cannot, within the space of a magazine article, go into a detailed discussion of the relative merits of the two systems. Suffice it to say that each of the two nations mentioned finds special advantages in its own system, and each finds its imitators among the several European governments, which have adopted them with slight modifications.

The double tariffs now in force, both in France and Germany, were adopted in 1892,—that is, soon after the McKinley tariff went into effect. As we had only one tariff for all countries, and were not willing to make any special concessions, France applied her maximum tariff to our products, while in the case of Germany

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we were granted the lowest duties accorded by her to any nation, since we enjoy the "most favored nation" treatment through our old treaty with the Kingdom of Prussia, concluded in 1828.

It is needless to add that, compelled, as we have been, to pay duties often as much as 75 per cent. higher than our competitors, we have not fared as well as we otherwise would in the French market. As France found her imitators among other European nations, this unpleasant fact was brought home to us with ever-increasing force.

The Europeans had at last turned our own weapons against us, and Congress found it necessary to make special provisions for reciprocity treaties in the Dingley bill, which at the same time imposed the highest rates of protective duties so far adopted by the United States. The provisions for reciprocity were twofold. One, embodied in Section 3 of the law, authorizes the President:

"to enter into negotiations with the governments of those countries exporting to the United States the above-mentioned articles, or any of them, with a view to the arrangement of commercial agreements in which reciprocal and equivalent concessions may be secured in favor of the products and manufactures of the United States; and whenever the government of any country, or colony, producing and exporting to the United States the above-mentioned articles, or any of them, shall enter into a commercial agreement with the United States, or make concessions in favor of the products, or manufactures thereof, which, in the judgment of the President, shall be reciprocal and equivalent, he shall be, and he is hereby, authorized and empowered to suspend, during the time of such agreement or concession, by proclamation to that effect, the imposition and collection of the duties mentioned in this Act, on such article or articles so exported to the United States from such country or colony, and thereupon and thereafter the duties levied, collected, and paid upon such article or articles shall be as follows. . . ."

The articles referred to, on which a reduction of duty was thus authorized, are crude tartar, brandies, champagne and other sparkling wines, still wines and vermuth, paintings and statuary.

This gave the President the power to grant, without requiring the consent of the Senate, specific reductions on a limited number of articles which we cannot produce in this country. The only matter left to his discretion was the amount of concessions to be obtained from the other side. Armed with this clause, President McKinley concluded trade agreements with France, Germany, Italy and Portugal.

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Each of those countries was granted the full amount of reductions thus authorized by Congress. In return, France extended to us the benefits of her minimum tariff on a limited number of articles, including canned meats, lard, hams, fruits and lumber. In addition, she admitted at the minimum rate of duty our petroleum oil, without including that article, however, in the treaty. Italy granted us her minimum tariff on cottonseed-oil, fish, agricultural and electric machinery and scientific instruments, and she agreed to admit free of duty our turpentine, fertilizers, hides and fur-skins. Portugal granted us her lowest rates on wheat, corn, flour of all kinds except wheat flour, lard, mineral oils, pitch and tar, agricultural machinery, implements and tools. Germany, having granted us her entire set of minimum duties in 1892, received the concessions given to the other three countries.

We did not, however, extend to her the more liberal concessions which were authorized in Section 4 of the Dingley law, as follows:

"SEC. 4. That whenever the President of the United States, by and with the advice and consent of the Senate, with a view to secure reciprocal trade with foreign countries, shall, within the period of two years from and after the passage of this Act, enter into commercial treaty or treaties with any other country or countries concerning the admission into any such country or countries of the goods, wares, and merchandise of the United States and their use and disposition therein, deemed to be for the interests of the United States, and in such treaty or treaties, in consideration of the advantages accruing to the United States therefrom, shall provide for the reduction during a specified period, not exceeding five years, of the duties imposed by this Act, to the extent of not more than twenty *per centum* thereof, upon such goods, wares, or merchandise as may be designated therein of the country or countries with which such treaty or treaties shall be made as in this section provided for; or shall provide for the transfer during such period from the dutiable list of this Act to the free list thereof of such goods, wares, and merchandise, being the natural products of such foreign country or countries and not of the United States; or shall provide for the retention upon the free list of this Act during a specified period, not exceeding five years, of such goods, wares, and merchandise now included in said free list as may be designated therein; and when any such treaty shall have been duly ratified by the Senate and approved by Congress, and public proclamation made accordingly, then and thereafter the duties which shall be collected by the United States upon any of the designated goods, wares, and merchandise from the foreign country with which such treaty has been made shall, during the period provided for, be the duties specified and provided for in such treaty, and none other."

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President McKinley, alive to the demands of our growing export trade, attempted to make full use of the above clause. But the treaties concluded by the Hon. John A. Kasson, the special commissioner appointed for the purpose, met with such effective opposition in the Senate that nothing further was done. Even that larger treaty which was to have opened to us the French markets on the same terms as enjoyed by Great Britain and Germany, our chief competitors there in manufactured goods, did not give the French the full reduction authorized by the above quoted section of the Dingley law. The French came to Mr. Kasson offering to extend to our imports their entire minimum tariff in exchange for the 20 per cent. reduction on the Dingley tariff as authorized in section 4, but Mr. Kasson would not entertain that offer. That did not save his more modest treaty, however, when it reached the Senate.

III.

Our position as above outlined, resented, as it is, by the European nations, is further complicated by the different interpretation we put on the "most favored nation" clause, as compared with European practice. The difference in the respective attitudes of the European governments and our own will best be illustrated by our relations with Germany.

The only general treaty regulating our trade relations with Germany is that concluded with Prussia May 1, 1828. Article V of that treaty says:

> "No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of Prussia, and no higher or other duties shall be imposed on the importation into the Kingdom of Prussia of any article the produce or manufacture of the United States, than are or shall be payable on the like article being the produce or manufacture of any other foreign country. . . ."

On the strength of this clause, Germany claimed that any tariff concession made by us to any country must of right be extended to her, without any additional concessions to us on her part.

However, the same treaty with Prussia contains another clause, Article IX, which reads as follows:

> "If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other

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nation, or *on yielding the same compensation, when the grant is conditional.*"

It is on this latter part of Article IX, italicized above, that the American government lays special stress, and makes it the test for the extension of the most-favored-nation treatment in our relations with foreign nations. It is not accepted, however, by the European governments, and may cause considerable friction when the work of revision of the tariffs is completed, and the Europeans get ready to take up the matter with us.

In order to be in a position to appreciate the interests involved therein, let us cast a glance on the balance-sheet of our trade with the principal European countries.

IV.

Our total exports to Europe in the fiscal year 1904 exceeded one billion fifty-seven million dollars (the largest on record except 1901), constituting considerably over two-thirds of our total exports. Of this most important branch of our foreign trade, the United Kingdom alone, not including any of the British colonies, took more than one-half, or nearly 538 millions. The next largest customer is Germany, with 214 millions, or more than 20 per cent. Next in order of importance are France, with 85 million dollars or 8½ per cent., and Italy, with 35 millions or 3½ per cent. The figures credited to the Netherlands and Belgium in our statistics, namely: 72 and 41 million dollars, respectively, are, no doubt, in excess of what those countries imported for their own use, a considerable part of our exports to those two countries being destined for Germany, France, Switzerland, Austria and Russia.

Let us see, now, what progress we have made with our exports to the most important European countries in the last ten years.

Fiscal year ending June 30.	United Kingdom.	Germany.	France.	Italy.	Austria-Hungary.
		Millions of Dollars.			
1895	387	92	45	16	2
1896	406	98	47	19	2
1897	483	125	58	22	4
1898	541	155	95	23	6
1899	512	156	61	25	7
1900	534	187	83	33	7
1901	631	192	79	34	7
1902	549	173	72	31	6
1903	524	194	77	35	7
1904	538	214	85	36	8
Inc. during decade....	**39%**	**133%**	**89%**	**125%**	**300%**

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The figures of increase per cent. need no comment. They bear eloquent testimony to a rapidly growing trade with the most advanced nations of the world. Yet it is in these very countries, which together take the greater part of our exports, that the greatest danger to our export trade is lurking behind the new tariff legislation, which is quickly reaching its final shape and will confront this country at no distant date as an accomplished fact.

V.

As regards England, much need not be said here. The Chamberlain agitation is a matter well known to everybody, and is likely to result in some form of legislation to enable the government of Great Britain to force better terms for its trade in the markets of the world. The differential duties in her favor granted to her by our northern neighbors has led to an expression of hope on both sides of the ocean that the Mother Country may see its way clear to introduce a moderate duty on imported grain, not so much for the purpose of protecting the British farmer, as for the opportunity that would give for returning the Canadian compliments by way of a preferential duty on Canadian wheat. This would not only mean a severe blow to our export trade to Great Britain, but would greatly impede, if not effectually block, the movement now going on, on either side of the Canadian border, for reciprocal trade arrangements.

But it is the German position which is fraught with the gravest dangers, not only for the interests it directly affects, but also for the impetus it is likely to give to imitation by other nations which are looking to her for a lead.

As already stated, the present German tariff was adopted in 1892 as a result of a series of commercial treaties she concluded with the most important European countries. All of those treaties "bound her tariff until 1903,"—that is, fixed it beyond a possibility of change. Having extended to our trade the benefits of her minimum duties, Germany was granted, in a reciprocity treaty concluded by President Harrison in 1892, the free importation of sugar into the United States. The Dingley tariff of 1897 removed sugar from the free list; but, in its place, we granted to Germany lower duties on the few commodities covered by the treaty concluded by President McKinley in 1900. At that time, Germany was already at work on her new tariff.

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In the preparation of the new tariff (on which, it may be said in passing, the Germans spent nearly five years, having been at work on it continuously since 1897), the strategic position of the United States has figured more prominently in the endless discussions of government tariff experts and business associations, than probably that of any other nation, with the possible exception of Austria-Hungary. The new tariff, after passing the Reichstag and receiving the sanction of the Emperor on December 25th, 1902, has not been put in force as yet. It has so far served as a basis for new negotiations with the principal countries with which Germany has had commercial treaties.

In its final shape, the tariff presents such an extraordinary increase of protective duties, especially on agricultural products and other raw materials, as to have called forth the strongest condemnation even from the protectionist manufacturers' associations of the Empire.

A few figures will suffice to show how the new tariff is going to affect our exports. We shall take for our illustration only those articles which constitute an important item in our export trade to Germany. The duty on bacon is raised from 20 marks per 100 kilograms in the old tariff to 36 in the new, or 80 per cent.; on canned beef, from 15 marks per 100 kilograms in the old tariff to 60 marks, plus a surtax of 20 per cent., in the new, making a total increase of 380 per cent.; on lard and cottonseed-oil, from 10 marks in the old tariff to 12.50 marks in the new, or 25 per cent.; the duty on various kinds of lumber is increased about 25 per cent.; the old duty of 24 marks on sewing-machines is raised to 35 marks or 46 per cent.; the increase of duty on other kinds of machinery, such as typewriters, agricultural implements, etc., reaches as high as 50 and 100 per cent.; the duty on wheat, which has been 3.50 marks per 100 kilograms under the conventional tariff still in force, is raised to 7.50 marks per 100 kilograms (about 50 cents per bushel), or over 114 per cent.; on corn, from 1.60 marks to five marks, or 212 per cent.; on flour, from 7.30 to 18.75 marks, or 156 per cent.

A few of the important articles of our trade have not been subjected to an increase of duty, as they are of prime necessity to German manufacturers and cannot be produced there: thus, cotton, copper, fertilizers, rosin and turpentine are on the free list; the duties on refined mineral oil and tobacco remain the same.

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But, serious as the enormous increase of the German rates may be in its potential danger to American exports, it can completely paralyze our trade the moment other countries are granted more favorable terms than ourselves. As long as Germany is willing to place this country on an equal footing with other nations, we may continue to hold our own against our competitors, at least so far as our *relative* share of the Empire's trade is concerned. But all indications seem to point to an intention on the part of the Germans to refuse us the most-favored-nation treatment, unless we make equivalent concessions in return. It is true that a tariff-war with the United States might prove more costly to her than to ourselves, as it would tax her industries to a far greater extent; but the same may be said of any war, and was no less true of her tariff-war with Russia in which she undertook—and with complete success—to force the latter country to grant more favorable terms to her goods in the year 1894. On that occasion, Germany used American competition as a whip against Russia. At present, there is apparently an intention to use Russia as a whip against the United States. For, no sooner had the tariff received the Emperor's signature, than successful negotiations for a commercial treaty, whose terms are still kept secret, were opened with Russia. Germany selected the proper psychological moment for the operation, being able to secure favorable terms in return for moral and financial support in the war with Japan.

What with our refusal to give the most-favored-nation clause the same sweeping interpretation as Germany has been insisting on so far, and our repeated assertions that the old treaty with Prussia does not necessarily apply to the entire German Empire, Germany has ample ground, from her point of view, for denouncing the old treaty and subjecting our goods to the rates provided for in her new general tariff, as illustrated above. Should we resort to reprisals, or even should we grant to any nation more favorable terms than to Germany under our construction of the most-favored-nation clause, the German government is authorized by Section X of the new tariff law to have our goods "burdened with a surtax ranging to 100 per cent. of the tariff duty imposed on such goods, or even with a surtax equivalent to the total value of the goods themselves. Goods free of duty by virtue of the tariff may, under the same conditions, be taxed with a duty not exceeding 50 per cent. *ad valorem*."

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Such are the serious possibilities hidden in the present German-American trade relations, which are apt to reach a critical stage as soon as Germany has concluded new treaties with her neighbors and denounced the treaties now in force.

Nor can it be said that our relations with the other principal nations on the European continent are in a more satisfactory condition. Our trade agreement with France, concluded in 1898, gave us reduced rates on a number of articles mentioned above, of which we exported to France in that year nearly three million seven hundred thousand dollars' worth, or only about four per cent. of our total exports to that country. It is interesting to note, however, that, while our total exports to that country *declined,* in the five years following the conclusion of the reciprocity agreement, from $92,000,000 (in round numbers) in 1898 to $72,000,000 in 1903, or about 22 per cent., the trade in the few articles covered by that agreement *increased* from $3,700,000 to $5,400,000, or about 46 per cent. This goes to show that the reason for the unsatisfactory progress of our export trade with France lies in the maximum rates we have to pay. Says Mr. A. M. Thackara, United States Consul at Havre, France*:

"The trade of our country with France is handicapped to some extent by the heavier freights and custom duties our shippers have to pay, in comparison with the German and English competitors; and, no doubt, if the commercial agreement now existing between France and the United States were extended to cover other articles, the trade between the two countries would be materially increased."

Even as it is, according to the same authority, "we sent to France 15 per cent. of her wood imports, 20 per cent. of the machines and machinery imported, 5.5 per cent. of the tools and hardware, 11.8 per cent. of the lumber and woodware, 7 per cent. of the dressed skins, 18.75 per cent. of the oil-cake and 7 per cent. of the rubber goods received." Results like these, achieved in the face of serious handicaps to our trade, certainly point to a most promising field, which could be utilized to a far greater extent if we could but secure to our manufacturers the same treatment as is accorded to their German and English competitors.

What has just been said of France applies with even greater force to Italy, which is less developed industrially, and therefore

* Commercial Relations, Consul. Rep., 1903, p. 410.

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offers a more valuable field to our manufacturers. Here, too, we enjoy lower duties on a limited number of our products only, while paying the maximum duties on the rest of our exports. The result is that, while our exports of agricultural implements (enjoying a minimum duty) have nearly quadrupled in five years (from about $50,000 in 1898 to $193,000 in 1903), our total exports increased only 80 per cent. in the same period.

Russia granted us her minimum tariff on all our exports under the most-favored-nation clause. But the countervailing duty which Secretary Gage imposed on her bounty-paid sugar precipitated a tariff-war between the two countries which is still on. As the first step in that war, Finance Minister Witte issued an order, which took effect March 1st, 1901, subjecting our exports to the maximum duty, with an additional surtax of 30 per cent. on several classes of iron and steel manufactures, tools, machinery and bicycles, and 20 per cent. on rosin and pitch, making the total increase over the duties previously levied on those goods from 50 to 100 per cent. The new tariff which Russia has just adopted, but which, like the German, has not as yet been put in force, pending the conclusion of new treaties, has raised those duties still higher and threatens to kill our trade entirely, unless we come to some new arrangement with that country.

Our relations with Switzerland are also strained, since we denounced our treaty with that republic. This had to be done, because it was found that the wording of the most-favored-nation clause in the old treaty was such as to allow only the European interpretation of it. Since then, our exports to that country have been subjected to the maximum rates of duty, which have been further increased in the new Swiss tariff which is soon to be put in force.

In Austria-Hungary, we still enjoy the benefits of the most-favored-nation treatment with excellent results. But the mutterings against the "American invasion" in the Dual Empire are growing in volume and intensity in proportion to the progress we make, and no doubt need to be entertained that we will not be allowed to fare as well under the new tariff, which awaits the sanction of the Reichsrath to become a law, unless they succeed in getting something in return.

The above presentation of the existing state of our foreign trade relations has not been made with the intention of con-

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structing an argument for or against tariff revision. The only desire was to bring out the salient features in our foreign trade relations, which will undoubtedly claim a prominent share of the attention of our government in the near future. The only way in which it would seem the situation could be met is by vesting the administration with power to enter into negotiations with the governments of the different countries at the proper time. This could be done either by amplifying the scope of Section 3 of the Dingley law, which would give to the President power to arrange reciprocity treaties on a basis of a larger number of articles than those now provided for; such a provision would enable the President to conclude new treaties without requiring the sanction of the Senate, as was done in the case of the four trade agreements concluded by President McKinley with Germany, France, Italy and Portugal, now in force. Or a new lease of life might be given to Section 4 of the Dingley law, under which Mr. Kasson unsuccessfully tried to conclude reciprocity treaties, and which expired by limitation on July 24th, 1899. Or, finally, an entirely new enactment might be passed by Congress looking to that end.

N. I. Stone.

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THE IMMORTALITY OF THE SOUL.

BY JAMES H. HYSLOP, FORMERLY PROFESSOR OF LOGIC AND ETHICS IN COLUMBIA UNIVERSITY.

IT is not surprising that the orgies through which history has passed in the name of immortality should have been followed by a period of indifference. Otherworldliness had become a curse worse than Greco-Roman naturalism. It seems that, when man reacts against ideas which he discovers to have represented an error and to have disturbed the motives of a healthy will, he does so with his whole heart, and preserves his dignity, his freedom, and his independence only by disavowing all interest in what his predecessors had valued above all else. Having discovered that the belief in a future life had been as much abused as it was lacking in the credentials which supported other beliefs, he resolved to waste no time in crying over his losses and to divert his energies into the salvation of his present life. In this way, he gave health to his activity while he crushed the puling sentiments of despair, making himself a man while he sought his hopes and enthusiasms in the order in which he has to live and struggle. Nature had effectually concealed from him any other order than the present, at least according to the accepted standards of philosophy and science, and thus apparently taught him not to try discovery in the transcendental or to build and act on hopes that were not based on facts intelligibly reflecting another world. The reaction against mediævalism thus had its healthy character. But to achieve this development it had to neglect another side of the belief in a future life, and this was its influence on the individual and social ideals of man. In spite of the moral abuses associated with the idea of immortality, it has had a profound influence on man's attitude toward nature and its treatment of his fellows, as well as the spiritual estimate which he placed upon himself.

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This view is clearly evinced by the observations of Mr. Goldwin Smith in an earlier number of this REVIEW, in which he gave a frank and emphatic recognition of the social value attaching to the belief in immortality; and a special interest attaches to these observations, because they come from a historian and not from a philosopher, from a man who has observed closely the movement of political events, and who has not been primarily occupied with abstract speculation.

Though the utility of the belief is conceived from the point of view which his agnosticism has discarded, there can be no doubt that Mr. Goldwin Smith rightly estimates the natural consequences of surrendering the longer and more ideal conception of human life and consciousness, a surrender that must entail a return to the economic and materialistic conception of conduct. The recognition of this utility wherever it is admitted ought to awaken the inquiry whether the belief can be wholly an illusion. The fact that a belief has beneficial consequences through long periods of time rather supports the conviction that it contains a truth, whether provable or not. The very doctrine of evolution would tend to confirm a suspicion of this kind, as in it survival, whether of ideas or things, is more or less the test of truth and value. Of course, scientific method will rightly demand better evidence than utility for its convictions on so important a subject, but it can hardly escape responsibility for investigation after conceding a value to the belief.

But, when it comes to estimating the intellectual grounds of this belief, Mr. Goldwin Smith has the choice between philosophy, revelation and science. He rightly rejects the conclusiveness of philosophic arguments, and he distrusts revelation because it has no way of satisfying our doubts about its alleged facts. To science he does not turn, though he does refer to the allegations of a false spiritualism, without mentioning that psychical research which is an effort to discriminate in the claims of the spiritualists, and to investigate a set of facts that, if genuine, suggest a fair reason for the hope that Mr. Goldwin Smith admits is possible in spite of his agnosticism. For strategic purposes he had to omit all mention of this subject. The inadequacy of philosophy and revelation will always be felt wherever scientific method prevails, and it will be scientific method that will always determine the strength of agnosticism on the problem of survival after death.

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As for myself, I recognize no conclusive evidence independent of scientific method.

I say "conclusive evidence," because I wish to admit the existence of a body of influences (not evidence) which keep the belief alive without being able to satisfy human reason. I refer to our so-called instincts, love of friends, love of existence, the feeling that life is irrational without it, the moral law, and the implications of a divine intelligence. I cannot regard nature as rational unless it involves the persistence of personal consciousness and of man's highest ideals, quite as much as the persistence of force. But then nature may not be rational, and I shall not insist on that rationality unless I prove this survival as the most probable fact. To assume the rationality of nature in order to prove immortality is only begging the question. When we come to assuring ourselves, we have to discover facts that will permit no other interpretation than survival, facts that will stand the scrutiny and analysis of scientific method.

It is admitted by all parties that Christianity and its doctrine of immortality were founded upon the story of the resurrection. Whatever the facts may have been which were embodied in this story, it is clear that the idea took the form in later thought of the bodily resurrection, that is, the reappearance of the physical organism at some particular time with the identical consciousness that characterized it in its mortal existence. But, in assuming this form, the belief had forgotten the intellectual conditions which had given rise to the original form of statement for it, and so had distorted conceptions which were conceivable under the assumptions of a philosophy quite different from that of later periods. This is worth a careful examination.

Ancient philosophy maintained that all substance was "physical" or "material." Immaterial substance was inconceivable to it. If it even thought of the "immaterial," it was only as the functional activities of matter, or as space which was practically nothing. When it came to making distinctions to explain certain phenomena whose causes did not clearly reveal themselves to sense perception, a distinction was drawn between heavier and lighter matter, and the lighter matter, in the process of refinement, became wholly supersensible and at least approximated the conception of the spiritual in later times, if it did not become identical with it. It was a widely prevalent view that the soul

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consisted of this fine matter, and that conception easily gave rise to a doctrine of the resurrection. But, when religious thought came forward with its theory of the creation of "matter," accepting its phenomenal character from the philosophy of Plato, it was forced to carry the distinction made between heavy and light, sensible and supersensible "matter" over into the antithesis between "matter" and "spirit," and two kinds of reality were set over against each other. This opposition or dualism matured in the philosophy of Descartes, that is, obtained the clearest conscious expression in him, though it had determined men's mode of thought in these matters for centuries before this maturity. This development of thought tended to associate the idea of "matter" with sensible substance, or when its supersensible form was admitted, to exclude the spiritual from it. In this view of things, a doctrine of the resurrection would most naturally take the form of asserting the resurrection of the biological organism with which we are familiar, and this would be the tendency of all who were not familiar with the philosophic conceptions which might make the resurrection of the soul or finer supersensible matter a possible fact. The system of thought which conceived the soul as a fine "matter" would have no such difficulties with a doctrine of the resurrection as we should have with it when applied to the physical body as we know it, and the common mind of the ancient period, not being familiar with the speculations of the schools, would easily enough mistake references to the "spiritual body" for those of the physical body, as both were of the same nature. Let us examine this more carefully.

There were three systems of philosophy prevalent at the time in which Christianity originated. They were the Platonic, the Epicurean, and the Neo-Platonic. The Platonic philosophy has always been known as advocating the immortality of the soul, but it is easy to be deceived by its language. Immortality, as maintained by Christianity, means a personal survival after death. But Plato did not affirm personal survival. His immortality was the indestructibility of substance, and not the permanence of its phenomenal forms. He was influenced by the general conceptions of his time which had observed the continuity of species and kind; and, with the conviction that there was something permanent at the basis of these phenomena, his conception of the imperishable was the same as our conservation of energy in its essential aspects.

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Hence Plato's conception of immortality took the form of reincarnation, and not of personal survival—that is, the functional identity of consciousness independent of the physical organism. He no more believed in the persistence of personal identity than the modern materialist. The Neo-Platonists had much the same view, though they dabbled in natural magic and phenomena that would now be the subject of psychical research. But they were not for personal immortality in any clear sense of the term, but rather for absorption in the Absolute. The Epicureans denied immortality, holding that personal consciousness did not survive death, being merely a function of a perishable complex organism of fine "matter." But there was a peculiar inconsistency in the materialism of Epicurus and his school. They maintained that the soul was a fine material or "ethereal" organism in connection with the grosser bodily organism which we sensibly know, and hence they referred consciousness to this finer organism as its function. It thus followed common sense in the distinction between mental and "physical" phenomena, referring the mental to the "ethereal" organism. Now, if Epicureanism had referred consciousness to the grosser physical body or organism as its function, like digestion or the circulation of the blood, it would have good ground for denying personal survival after death. But, after saying that the soul was a fine "material" organism other than the grosser body, the school had no ground for asserting its extinction with the grosser physical body. All that it had evidence for was the perishable nature of the sensible physical organism and its functions, and it should have sought evidence that the finer organism perished with its functions. This it did not produce, but affirmed in an *a priori* manner.

Hence the believer in personal survival had only to reduce the materialistic philosophy to a logically consistent position, in order to produce an unanswerable *ad hominem* argument for immortality. He could either demand evidence for its perishing or assert that, like the atoms, the "ethereal" organism could not perish unless some external force destroyed it. The ideas of gravity at the time favored the notion that this "ethereal" organism would rise into the higher regions of space. The whole ancient conception of the movement of matter favored this notion. Having no theory of gravitation like the Newtonian, they generalized common experience and maintained that heavy matter tended

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downward and light matter upward. Hence there arose the idea that, at least after a period of association with the grosser body in the underworld, the "ethereal" body rose into the upper or "ethereal" region. The resurrection of the "body" was thus the resurrection of the finer "material" organism, which we may call "ethereal" or "spiritual" as we please. But, when the philosophic conceptions which made this idea possible had passed away, the phrases about the resurrection would inevitably apply to the sensible ideas of "matter," and the physical resurrection would take the place of the older conception associated with the supersensible view of the soul as an "ethereal" or "spiritual body." As "matter" in the Christian system became a created and phenomenal thing, a sensible reality, the notion of a resurrection would be transformed into that of the sensible physical organism, while its credibility would be as possible as its theory of creation, and would stand or fall with it. But, as long as the soul was conceived as a finer "matter" or "ethereal" organism, some theory of a resurrection was perfectly consonant with the idea of Greek thought generally in regard to the distinction between the different types of "matter" and, in particular, with the materialism of Epicurus as it was conceived and defined.

Now, a doctrine of the resurrection had been worked out as credible long before it was alleged, as a fact, of Christ. The controversy between the Sadducees and Pharisees on the question of immortality is indubitable evidence of this assertion. The Pharisees affirmed the resurrection, the Sadducees denied it. The former were the democratic religious class, the latter the aristocratic materialists. The idea of a resurrection of some kind was quite familiar and was not sprung upon human belief without warning, and it represented philosophic preconceptions in entire harmony with the spirit of the age, an antecedent probability in the terms of the prevailing materialism, and so quite adjustable to the belief, then and perhaps always common, in apparitions of the dead. It makes no difference whether stories of apparitions represent real spiritual existences or mere illusions and hallucinations. They have been taken for realities and have influenced belief accordingly. In human thought and action, belief will serve all the purposes of fact. Apparitions have been believed to be facts, representing actual realities independent of the mind experiencing them, and in all ages this belief has affected the

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doctrine of immortality. That they were matters of common notoriety and acceptance at the time of Christ is evident in the story of the appearance of Moses and Elias on the Mount, the supposition that Christ walking on the water was a "spirit" or apparition, the story of Christ's appearance to his disciples on the way to Emmaus, and of his appearance in the locked room at Jerusalem, and St. Paul's vision of Christ. Allied phenomena were the "speaking with tongues" on the day of Pentecost and demoniac possession. These with the accepted philosophic conceptions of the soul made a doctrine of the resurrection quite natural, though it was at first conceived as that of the "spiritual" body, which, as I have said, was only a finer "ethereal" matter. But when this conception of "body" had disappeared and the conception of the soul as a reality, without any "material" attributes whatever attaching to it, had taken its place, the notion of a "bodily resurrection" could take no other form than that of the physical organism with which we are familiar, and authority was sufficient to maintain it against all credibility.

The physical resurrection thus became that of the gross material body when the primitive conceptions of the problem, both in philosophy and common life, did not require any such belief. Hence the perplexities of the modern sceptic are the consequence of intellectual changes, accompanied by the attempt to sustain traditional formulas and modes of expression in a past no longer understood. The orthodox man has been his own great enemy. Instead of interpreting the doctrine in the light of its environment, that of prevailing philosophic and current common conceptions, and thus finding what men really believed, he has transliterated the phrases of the past and read into them his own conceptions born of his own experience and the influence of a later philosophy. It is this that has made it impossible for intelligent men to believe in the traditional evidence for a future life. Taught to accept it on the authority of stories told nineteen centuries ago, when similar accounts would be and are discredited to-day by the very people who ask us to believe those of antiquity, and discovering that tradition is either unreliable or incompatible with the known truths of science, they naturally recur to scepticism, as their necessary mental attitude toward a belief which their natures crave, but which their intelligence cannot support. If they could frankly investigate the facts about them, they might

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find some scientific ground for a faith which they ridicule or deny, because it is more respectable to talk about illusions than it is to investigate facts. I have only to refer to such experiences as that of Lord Brougham, Professor Romanes, Andrew Lang, and the hundreds or thousands of instances recorded in the "Phantasms of the Living," in the "Census of Hallucinations" by the Society for Psychical Research (Vol. X. of *Proceedings*), Flammarion's "*L'Inconnu*," F. W. H. Myers's "Human Personality and its Survival of Bodily Death," and the many thousands of such facts not yet published but on record, in order to show that even ghosts do not always yield to the exorcism of a sneer, though I am loath to entertain them as scientific evidence of a future life, even when I am puzzled to explain them by any other supposition. I can well conceive, as I know to have occurred in some cases, that imagination has produced creations which examination soon dispels as illusions. But there are many thousands of well-authenticated instances, involving certain kinds of detail and coincidence with distant facts not known at the time, which are not easily explicable by either chance or ordinary hallucination, and which make them fit subjects of scientific investigation, even though they result in proving less than that which they superficially claim to suggest. It is easier to ignore them or to ridicule them on the popular prejudice against their significance than it is to suit ones sceptical theory to the facts, and they are usually ridiculed by those who will not examine all the evidence.

When the supernormal is once conceded, as it seems to be in such phenomena as are on record in connection with the most careful investigation, it is only a question of the kind of facts whether we are communicating with discarnate personalities. The facts on record are just such, with variations due to special conditions of mind involved in the act of communicating, as we should expect friends to send over a telegraph wire to prove their identity when disputed or demanded. Their triviality is an advantage in the evidential problem, and so far from disconcerting the sane scientist will only meet with his approval. This point aside, however, there can be no doubt that the subject and the facts demand the respectful consideration of science.

But Mr. Goldwin Smith objects and says that "we look for dignity in the manifestations of the spirit world." This objection will not bear consideration. We may well sneer at the per-

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formances of impostors and the silly and credulous allegations of dupes; but to demand dignity of a ghost, or of a communicator from a transcendental world, is to ignore both the facts and the most natural assumptions of difficulty implied by the almost universal silence of discarnate spirits, if they exist at all. No intelligent man, studying the phenomena which purport to be communications from the discarnate, and which have excluded the consideration of fraud, would expect dignity to be reflected in the transmissions of messages from a supersensible to a sensible world, when those communications must come through abnormal media. The difficulties and complications in such communications are not only to be expected, but are the most obtrusive characteristic of the phenomena claiming a transcendental source, while the investigator has emphasized *ad nauseam* the fact that the medium is in an abnormal mental condition, as a means of obtaining anything at all from the outside world in a supernormal manner. Add to this the evident hypothesis that the discarnate spirit has himself to be in a more or less hypnotic or trance condition in order to communicate at all, and it ought to be apparent that we should not expect the language and thought of inspiration. We must be thankful if we get anything as intelligible as delirium, which is perhaps better for proving personal identity than anything else that we could desire or obtain. To expect dignity in any such situation is to misinterpret the facts and the conditions. The argument from dignity is a reflection of intellectual pride and not of scientific insight. Cicero and many ancient philosophers argued for immortality on the ground of man's dignity. But such a plea is possible only to aristocratic temperaments and can have no place in a democratic mind. Evidently we have not yet learned the lesson of humility which evolution teaches us. Dignity should have no more place in this subject than it has in the dissecting-room or in the study of earthworms, and we should no more expect it in the communications than we find it in the common intercourse of men. Most of the social intercourse in which we seem to take pleasure consists of badinage and small talk, and the only dignity that it ever exhibits comes from our personal vanity and the seriousness with which we take white neckties and décolleté dresses.

It is the triviality, and not the want of dignity, in the communications that perplexes those who do not think scientifically

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and clearly on the problem and the facts. I can well understand the difficulties which this feature of the alleged communications creates for all who are more interested in the intellectual and moral appearances of the data than in the scientific side of the question. But I must reproach them for appealing to the scientist for an opinion, and then laughing at his conclusion because it does not square with ignorant impatience and aristocratic pride. If you cannot make out a case of fraud, you must accept the conclusion which science offers, even if it shows that we are all idiots after death. But there is no final reason for supposing that idiocy is the natural state of the discarnate, if they exist. We might have the intelligence to conjecture that the manifold complications, mental and physical, intervening between a spiritual and material world not connected as in the human organism should give rise to all sorts of limitations and inanities in the communications, and then examine the facts to see if the hypothesis is sustained. The verdict of science has to be accepted, whether we like it or not; and, if we wish to escape its decision, we should not appeal to its court, which entertains no presumptions as to what should be in another world when communication with it is in course, unless it be the presumption that difficulties would be most natural. The analogy of a man born blind trying to make his aural experiences intelligible to a man born deaf and dumb might afford some caution to those who rush in to predetermine the nature of the communications, even supposing the communicators to have no mental difficulties on the side of the discarnate. But when you add the hypothesis of something like a condition of dreaming in the transcendental world as necessary to communication, we may well expect that the pathological of one side should be made worse by the pathological of the other. It should be apparent also that such a condition in the spiritual world, as affecting the possibility of communicating, would make it extremely difficult, apart from the obstacles to describing a supersensible world in sensible terms, to convey any rational account of it, a situation which the moralist might welcome as excluding all reasons for dabbling in that otherworldliness which has been the shame of religion in the past and the danger to which its revival is exposed. What disgusts the morally healthy man in the Spiritualistic organizations is not only the dubious character of their performances, but also their exclusive occupation with an

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otherworldliness that is neither ideal nor made to give any lustre or inspiration to the practical philanthropies of daily life. Beautifying and moralizing the terrestrial life are left to the unbeliever who is not interested in immortality. They too often forget that scepticism has been the Nemesis of that faith which sacrificed a humanitarian enthusiasm for a maudlin passion over a future life. But these faults are no excuse for evading facts that have unpleasant company. The phenomena which suggest the possibility of a future life are now too numerous and too well authenticated to be despised, even though investigation should strengthen the cause of scepticism. They certainly demand the same endowed research that is given to deep-sea life, to polar conditions, to biological problems, and to the hundreds of questions that occupy scientific inquiry, especially when the belief in a future life is fraught with such tremendous ethical interests for the human race, both in its individual and its social functions.

Men often wonder why nature is so silent on the question of immortality when it seems so important to civilization. They say that, if it is a fact and has the value claimed for it, the rational law of things would be to reveal it and make it certain. But in this judgment they both neglect the various considerations in the economy of progress and evade their own responsibility for that apparent silence. If psychical research has any right to respect, and that it has is now generally granted, a complaining scepticism has itself to blame for the grief it feels. It appears that the facts suggesting it are plentiful in all ages and have been neglected, as is usual with residual phenomena, by all who prefer conventional creeds and respectability to the truth. And then human nature, with its passion for some other condition than any in which it finds itself, has so often abused its hopes that morality could revenge its own neglect only by cultivating the spirit of doubt. To the majority of men, immortality appears only as a personal boon or prize to be desired and obtained without due regard to the moralities and duties of the earthly life, and unaccompanied by that divine pity for others which makes sound minds equally indifferent to a future life and invulnerable to the doubt of it. The temptations to selfishness are not always overcome by the belief, and hence its distortion in the development of Christianity. But, whatever the abuses associated with the doctrine, it affords almost an indispensable leverage for those

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whose interests are instinctively social and moral to raise the estimate of life in others. It is not the hope of personal satisfaction that gives it the value it possesses for human life and conduct, but the opportunity it offers moral personality for more complete development. The fact that we may have a personal interest in it does not detract from its value, provided that interest is complemented by humanity. That is, no personal interest that consists with the equal development of others can be immoral or objectionable in any social sense. Consequently, there is no reason for depreciating its value and influence on life, but the materialistic conviction that it is not obtainable at any hazard, however desirable it might be. Both the instinct of self-preservation and the conscious estimate which we place on all the higher ideals of life—that is, the knowledge, the affections, the emotions, the aspirations, the actions of men in science, art, religion and politics—are indubitable evidence of the fact that morality requires us to estimate consciousness more highly than a dead nature, and hence it is only an extension of this idea that we should demand a future life as an evidence that nature is as respectful of consciousness as it is of matter. The indestructibility of matter and the conservation of energy show that inorganic forces are permanent and why not consciousness and personal identity, if morality is to have any validity beyond Epicureanism of the sensuous sort? If then any assurance can be obtained that nature preserves the opportunity for a spiritual development, there is abundant reason for supposing that the belief of immortality can be put to a noble use, and if it is not so used the fault is not in the belief.

The belief had little influence in Greco-Roman civilization because there was no recognition of the value of the individual and his moral personality for itself. Individuals existed for art and the state and not for their own development. In Christian thought, the individual represented a soul of infinite value for itself; and, instead of being voluntarily sacrificed to the interests of the state, others were conceived as equals and the sacrifices due them must be voluntary. Hence democracy and the immortality of the soul became associated. But these ideas derived a part of their efficiency from associated doctrines. It was the Christian scheme of damnation and redemption that made men feel the importance of a life adjusted to the belief in immortality. This

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scheme was not based solely upon personal hopes regardless of social conduct, but it conditioned salvation upon the performance of all those social duties which represented and recognized the love of others as well as self. The importance of both was exalted by the denial of probation after death. This position gave a terrible importance to right action in this life. The hope of personal happiness hereafter was made dependent upon social duties in this world. This conception combined individual interest and social morality in a manner that gave Christianity far more influence on civilization than Greco-Roman philosophy. It secured the importance of individual personality, which Greece and Rome did not recognize, and protected society by higher ideals than science and art, as well as by a strong motive either for respecting our neighbors or for adjusting our conduct to their equal rights.

The history of the Middle Ages shows what a tremendous influence for good and evil this idea exercised, and the application of it was so terrifying that the Church had to adopt the theory of Purgatory to modify its asperities, and even this only postponed the termination of probation. It is, therefore, quite natural for the human mind to resent the silence of nature on a future life, if the chance for reform or improvement is lost with the present. With the want of any probation in another world, there ought to be some definite assurance of the life that excludes it, so that the motive for morality might be as effective as strict justice requires. Responsibility is proportioned to knowledge. But if there are no irredeemable consequences of conduct, if nature or Providence be more merciful than medieval theology represented them, and if the function of morality be merely social, the passion for assurance as to a future life would be less intense and the want of it would call for less resentment against the order of the world. The approval or impeachment of any order depends upon the adjustment of knowledge and responsibility. Hence the question whether a future life should be known or unknown depends partly on the relation which subsists between terrestrial morality and the condition of personality after death and partly upon the use which man makes of his knowledge when he has it. If this belief or knowledge is not rightly used scepticism must be the redeemer of morality.

But scepticism may also have a Nemesis, and it is sure to have this, unless it accepts responsibility for progress. If you shut out

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all hope and belief in a future life, you undoubtedly limit the motives of some morality to the present life, and at least during the reaction against the older religious otherworldliness this tendency will be toward a sensuous and materialistic conception of conduct. In this transition the older religious ideas may carry over into the secular view some, but only a temporary, influence. The social and ethical motives instigated and sustained by a Christian hope may lapse, while the momentum of habits that have become conventional under the original impulse may continue an external morality long after the motives that originated them have been abandoned; and we should have a brave defence of duties without hope, until a younger generation arises which feels neither hope nor duty, or, if it feels a duty of any kind, gives it a wholly different object from that which was derived from the sense of the permanent value of personality, and returns to the worship of science and art with their attendants of aristocratic distinctions and economic ideals. It is this tendency which Mr. Goldwin Smith has perceived so clearly and indicated so fully, and there can be no doubt, whether for good or ill, that the belief in immortality exercises less influence on practical life than it did two generations ago, when materialism was less extensively held.

The idealistic morality of the spiritual cannot, in the long run, survive the estimate which a spiritual philosophy places on human personality and consciousness. It is the permanent and eternal which interests even science, when it comes to prescribing what is practical and useful for life. Even evolution shows, in its fundamental doctrine of the survival of the fittest, the tendency to place the primary value on what withstands the shock of dissolution. If, then, we can discover the same persistence for personal human consciousness (the survival of personal identity) that we recognize in the conservation of energy, where in spite of all its changes reality retains sufficient identity in kind to be called the same substantive background, we may well consider that nature is quite as kindly toward mind as toward matter, and feel assured that a spiritual life, begun in an incarnate existence, may prolong its activities in some supersensible condition. All that scepticism can deny is the evidence for a future life. It can neither ridicule the idealism of a spiritual view, nor dispute the possible value of the fact of another world, if it is made scientifically credible.

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The most significant fact right within the field of scientific materialism itself, and pointing definitely to the possibility or at least to the rationality of supposing the possibility of a future life, is the extent to which physical science admits the existence of a supersensible world of reality which had not been suspected or proved until within recent years. We may instance Roentgen rays, the various forms of radioactive energy whose whole gamut is not yet known, and the speculations about ions and electrons that take us far beyond the world of Lucretian atoms into the measureless universe of ether whose properties make it impossible to apply the term "matter" to it without removing the antagonism of matter to the spiritual. All these discoveries represent realities quite as supersensible as the Christian conception of the immaterial, and we escape calling them spiritual only because the development of human thought has come to confine the connotation of "spirit" to implications of consciousness as its necessary and only function. It is this and this alone that prevents us from claiming that the outcome of physical science is the proof of a spiritual world. We have so defined the nature and problem of spirit as implicative of personal consciousness that there can be no proof of its reality apart from the animal organism and its functions until we show that consciousness and personal identity can survive death. All that the discovery of supersensible forms of energy proves is that the limitations of reality are not confined to the material world as we directly know it, but that there may be vast regions of energy which can be inferred or known only by its effects in the physical cosmos. One theory makes matter itself a creation from vortex "atoms" of ether, an assumption which simply annihilates the older materialism and which sets up a form of reality that might be the fountain source of and basis for the persistence of consciousness apart from the physical.

These are the facts and conceptions that suggest the possibility of the survival of consciousness after death, and it only requires such evidence of personal identity as cannot be explained by fraud or illusion to establish that survival through communication with the discarnate. The phenomena of hyperæsthesia which exhibit remarkably delicate sensibilities of the human organism, and the still more remarkable phenomena which suggest telepathy or the transcendental transmission of thought between incarnate minds, though very sporadic, are facts that make the evidence of com-

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munication with the discarnate quite possible, if they exist, and any evidence of personal identity, transcending explanation by fraud, illusion and telepathy, would prove that existence.

Now there is a large body of facts that claim this very character, and they are respectable enough to demand serious attention and investigation, even though they are insufficient to prove what they are alleged to support. They are more sporadic than the phenomena on which physical science relies for its investigations of residual realities, but they are less sporadic than experimental telepathy, and altogether make it a scandal to science that they are not financially provided for in the scheme of investigation. I have enumerated above the sources and records of the facts which allege at least a supernormal explanation and suggest the existence of discarnate spirits as the most natural explanation of some of them. But the complications and perplexities of the problem are so vast and baffling that assurance of any interpretation will be the reward of an investigation scarcely paralleled by any other efforts of science. The price of conviction on either side will be much patience and disappointment in the unlimited field of abnormal psychology, with only such glimpses of the transcendental as may filter through pathological media, and as would raise suspicion of their source were it not that all ordinary explanations are excluded, and that the difficulties and conditions of communication apologize for the character of the phenomena. The dignities and preconceptions of ordinary philosophy will have to be banished from consideration, just as the golden age of the past had to be contemned in the study of evolution, and with adequate protection against fraud and illusion we shall have to distinguish the residual phenomena that constitute beacon lights of another world or indicate little islands of promise in a Serbonian bog of pathology. But it will not matter for the result, and it may even conduce to its moral value, if, in the difficulties and limitations under which proof must come, we discover a world which conceals as much as it reveals, and if the same patient efforts that gave us argon and radium should obtain the evidence of another life, the belief in which, if shorn of the follies and abuses that have haunted its path in the past, may color with its own hues man's little islet of time, and offer that conception of his possibilities and duties which may regenerate his individual and his social life.

JAMES H. HYSLOP.

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GOVERNMENT RATE-MAKING IS UNNECESSARY AND WOULD BE VERY DANGEROUS.

BY DAVID WILLCOX, PRESIDENT OF THE DELAWARE AND HUDSON COMPANY.

THE incessant, and at times imperious, demand of the Interstate Commerce Commission for large additional powers has been greatly reinforced and dignified by the President's last annual message. That part of the message which referred to interstate commerce legislation was entitled "Rebates"; but the only legislation suggested was that the Commission should have power to make future railway rates. This illustrated the not uncommon confusion of the two subjects. The matter of rebates has been used largely for the purpose of stimulating public feeling in favor of establishing governmental rate-making. But the power to make future rates would have no effect upon the matter of rebates. A rate made by the Commission would be subject to secret cutting, quite as much as one made by railway traffic officials. The power to prevent rebates and the power to fix future rates are, therefore, two subjects having not the least connection with each other.

The legislative branch of the Government has already acted upon the matter of rebates. The Interstate Commerce Act absolutely prohibits such practices and prescribes heavy penalties therefor; and the Elkins law passed in 1903, without opposition from any interest, provides the further remedy of proceedings by injunction to enforce this prohibition. Accordingly, the Interstate Commerce Commission said in its annual report for 1893 (p. 7):

"The power of the statute in this direction was practically exhausted in creating the offence. When that was done, when certain acts were declared misdemeanors, the subsequent perpetrators of those acts be-

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came at once liable to criminal prosecution in like manner and by the same agencies as other offenders. Nor can Congress provide any summary or exceptional methods for preventing or punishing that class of transgressions. . . . Theoretically, at least, the existing system of laws applicable to the wrong-doing now referred to is complete and ample. It is not lacking in strength or certainty."

Again in its annual report for 1903 (pp. 10, 11), the Commission said, in discussing the effect of the Elkins law above mentioned:

"No one familiar with railway conditions can expect that rate-cutting and other secret devices will immediately and wholly disappear, but there is basis for a confident belief that such offences are no longer characteristic of railway operations. That they have greatly diminished is beyond doubt, and their recurrence to the extent formerly known is altogether unlikely. Indeed, it is believed that never before in the railroad history of this country have tariff rates been so well or so generally observed as at the present time. . . . In its present form the law appears to be about all that can be provided in the way of prohibitive and punitive legislation; unless further experience discloses defects not now perceived, we do not anticipate the need of further amendments of the same character and designed to accomplish the same purpose."

Similar views have just been expressed in the Commission's annual report for 1904.

Secret rebates and preferences to individuals have, therefore, been fully dealt with so far as concerns the lawmaking power. "The words of the statutes have no potency in preventing offences, and their multiplication and reiteration will not add to their effect." None of the bills pending in the present Congress has any provisions bearing upon the subject of rebates, and if they should all be passed the position of that matter would not be affected in the slightest degree. It would still be controlled by the statutes now in force which, as the Interstate Commerce Commission has repeatedly said, fully prohibit such practices and establish ample procedure for their prevention. If they continue to exist, it can be due only to failure by the executive branch of the government to enforce the existing statutes.

The only question involved in the proposed legislation is, therefore, whether the power of making the rates from which the income of railroad property arises shall be taken away from its owners and vested in the Government.

The policy of the country has been very distinctly to the con-

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trary. There is no indication in the preliminary debates that Congress sought by the Interstate Commerce Act to establish governmental rate-making. No such purpose is expressed by the terms of the statute, which are absolutely controlling as to the legislative intent (3 How., 224).

The Commission, therefore, decided in 1887 that "its power in respect to rates was to determine whether *those which the roads impose* are for any reason in conflict with the statute," (1 I. C. R., 357), and this language was later cited by the Supreme Court (167 U. S., 570) as showing that the Commission at first did not deem itself to be possessed of rate-making power. Subsequently, the Commission, however, made various attempts to regulate *future rates*. It has been said that the Commission exercised this power for ten years without substantial objection or suggestion that its course was unauthorized by law. (Annual Report for 1897, p. 11). This statement is erroneous. As early as 1889 and 1890, the Circuit Court held, in substance, that the Commission had no power to make future rates (37 Fed. Rep., 567; 43 Fed. Rep., 37), and the latter case was affirmed by the Supreme Court in 1892 (145 U. S., 263).

The Commission was not, however, satisfied with these rulings and continued its efforts, with the result that its authority was immediately challenged in the courts. The consequence was that upon March 30, 1896 (162 U. S., 184), and again upon May 24, 1897 (167 U. S., 479), the Supreme Court held with great positiveness that the terms of the statute granted no such power expressly and that it could not be implied therefrom, saying, "The vice of this latter argument is that it is building up indirectly and by implication a power which is not in terms granted." There was, therefore, no period of time during which the existence of such power was conceded by the parties affected, and as soon as the question reached the courts the power assumed was held not to exist.

The grotesque and empty claim has been made that these decisions in some way changed the act. Thus it has frequently been said that the court "emasculated" the statute; the Commission speaks of the courts having made "discoveries" contrary to the general understanding, by which sections of the statute were "eliminated" and "stricken from the act," and refers to the effect of these adjudications in "defeating the purposes" of the

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act; and the Commissioner of Corporations in his recent report says that the force of the Interstate Commerce Act has been "seriously weakened" by judicial interpretation. These fashions of speech show misconception of the processes of jurisprudence. By reason of the Commission's attempt to fix future rates, it became necessary for the Supreme Court to decide whether that body had such power. The court's decision, of course, took nothing from the act and added nothing thereto. The court decided merely that nothing contained in the statute, as it was passed in 1887, conferred any power to make future rates; no more and no less. It is, therefore, idle to speak of these decisions as having in any way qualified the act as Congress passed it.

The action of Congress in the matter was not accepted in all quarters as sufficient. A propaganda was at once set on foot, largely by the Commission itself, for further legislation increasing its powers generally. A few instances may be given of the efforts which have been made to stimulate public feeling and arouse hostility to the carriers.

Thus the expression "transportation tax"* has been habitually applied to the charges of the carriers. This, of course, has no more accuracy than would such an expression as the "wheat tax," or the "beef tax," or the "corn tax," or the "clothing tax," or the "newspaper tax" have in describing what is currently paid for those articles of general use. The individual consumer has no more to do with fixing the prices of such articles than with fixing the charges of the carriers. Those prices, too, are far more of a universal burden than are transportation charges. As the Commission said in its annual report for 1900 (p. 9), "generally a slight increase in the rate does not materially affect the price to the consumer"; and, in its annual report for 1903, "perhaps, in most instances the freight rate is so small a part of the total cost of a commodity that the consumer is unconscious of the increase in rate" (p. 32). But an increase in the price of articles in general use falls directly upon the consumer and is felt at once. Although, however, the burden of the transportation charge is so much the lighter, the general body of the consumers creates the conditions which settle the amount of that charge quite as much as the price of the goods transported. In-

* Annual Report for 1900, pp. 9, 13, 24; Annual Report for 1903, pp. 14, 15, 17.

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deed, the most potent cause of the downward course of rates in the past has been the pressing commercial necessities of shippers and consumers and the efforts of traffic officials to meet them.

So, too, the Commission (Annual Report for 1903, pp. 13-15), and one or more of its members individually, have asserted that rates as a whole have greatly increased of late. For example, in an article recently published in the NORTH AMERICAN REVIEW, one of the Commissioners said: "Within the last five years, rates upon *every* important commodity in *every* section have been advanced. . . . We are confronted with increasing monopoly, with advancing freight rates and with no probable relief in sight." At that time the last figures available were those for 1903, so that the comparison extended back to 1898. Yet in 1898, the average freight rate per ton per mile was .753 cents, or seven mills and fifty-three hundredths of a mill, and in 1903, it was .763 cents, or seven mills and sixty-three hundredths of a mill. The increase upon which were founded these lugubrious views amounted, therefore, in a time of generally rising prices, to ten-thousandths of a cent. per mile, or ten cents per ton for each thousand miles, or one and three-tenths of one per cent. In the depression of 1899, rates reached the lowest point ever known, namely, .724 cents per ton per mile. In 1903, the mileage rate was .763 cents. The increase, therefore, was merely .039 cents, thirty-nine thousandths of a cent, or about five per cent. As will shortly be seen, this was far less than the general increase in prices, and in no sense unreasonable.

Again, in response to an inquiry from the Senate, the Commission reported on April 7, 1904, that this rise in rates from 1899 to 1903, had added to gross earnings to the amount of $155,475,502, but that it was unable to state the amount added to net earnings. This was startlingly erroneous; the increase in mileage rate was .039 cents, and the total tonnage of 1903 was 173,221,278,299—multiplying the two together the increase in gross earnings was, therefore, $67,556,299, instead of $155,475,502. Moreover, the figures then in possession of the Commission showed that, comparing 1899 with 1903, gross earnings increased 43.7 per cent. and operating expenses increased 46.7 per cent.; gross earnings per mile increased 31.1 per cent. while operating expenses increased 34 per cent.; the ratio of expenses to earnings increased from 65.24 per cent. to 66.16 per cent.; the number of

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employees increased from 926,924 to 1,312,537, namely 385,613 or 41.3 per cent., and their compensation from $522,967,896 to $775,321,416, namely, $252,253,520, or 48.2 per cent.; the average compensation for each individual employee increased from $551.-89 to $582.76, making the total increase by reason of this increased rate $50,373,501; the total cost of fuel increased 40 per cent., or a total of $41,000,000. Still further, the figures for 1904 show that the operating ratio was 67.75 per cent. or 2.57 per cent. of the entire gross earnings above the operating ratio of 1899. These figures show that the slight increase in the mileage earnings has been totally absorbed by the increase in expenses of operation, and has been wholly inadequate to meet the same.

Obviously, the propaganda to take the railway property of the country out of the hands of its owners should rest upon something better than this in order to warrant such action.

The substantive provisions of the Interstate Commerce Act are that (1) rates shall be reasonable and (2) there shall be no unjust discrimination or undue or unreasonable preference between individuals, localities or classes of traffic. No change in these rules is now suggested. Those supporting this agitation should, therefore, show that the present act is inadequate to enforce them. But this is not the case in any respect.

1. *The existing rates are reasonable.* This is shown by the course of freight earnings throughout the country for the past thirty-three years, including 1903, the last year which has yet been officially ascertained. It should be borne in mind that these figures include local as well as interstate business, and that if the two were separated the interstate rates would be considerably less.

Average Earnings per Ton per Mile.

YEAR.	CENTS.	YEAR.	CENTS.	YEAR.	CENTS.
1870	1.990	1891	.895	1898	.753
1882	1.240	1892	.898	1899	.724
1887	1.030	1893	.879	1900	.729
1888	1.001	1894	.860	1901	.750
1889	.922	1895	.839	1902	.757
1890	.941	1896	.806	1903	.763
		1897	.798		

As to the facts, these remarks of the Commission are pertinent:

"Where changes of any importance have taken place in the freight rates of any section, either for local or competitive traffic, in nearly all

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cases lower rates are now charged than prior to the date of the act to regulate commerce. . . . Only from an extended inquiry would it be possible to accurately estimate the total reduction effected since the passage of the act to regulate commerce, but that it has been very considerable is well known. . . . Comparing the amounts received by the railways for transportation with amounts which they would have received on the volume of traffic carried from 1889 to 1893, if the average receipts per mile for 1888 had been maintained during the subsequent five years, it appears that the public would in such case have paid for freight and passenger transportation by railroad from 1889 to 1893, inclusive, $525,459,587 more than was actually paid for such transportation during that period."*

The foregoing figures show that the downward course of rates has continued since these remarks were made.

The slight rise in earnings per mile since 1899, upon which so much comment has been made, was due principally, not to an increase in rates, but to an increase in high-class freight from 23.19 to 24.58 per cent. of the total traffic. In any case it was not unreasonable. The average rate in 1897 was .798; in 1899, by reason of unfavorable commercial conditions, but especially of excessively low rates on bituminous coal, the average rate declined to .724; in 1903, it rose to .763—not as high as it had been six years previously, and an increase of thirty-nine thousandths of a cent, or about five per cent. This fluctuation clearly came within the expression of the Commission that "when reductions have been made on account of commercial depression, it is difficult to see why corresponding advances may not properly be made with the return of business prosperity." (Annual Report for 1903, p. 48.)

But, aside from this, there has been no such rise in railway rates as has occurred regarding prices of commodities generally. It has already been shown that in 1904, notwithstanding this slight advance in the mileage earnings, the percentage of operating expenses to earnings was 2.57 per cent. greater than it was in 1899. The recently published Bulletin of the Department of Labor (No. 51) with reference to the general course of prices shows, too, that, taking 100 as the average for the period from 1890 to 1899, the price of all commodities in 1902 stood at 112.9 or 12.9 per cent. *above* the average of the preceding decade. Applying the same treatment to railway rates, they stood in 1902 at 90.2 or 9.8 per

* Annual Report for 1894, pp. 50, 51.

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cent. *below* the average of the preceding decade. This proves that railway rates had greatly declined while prices in general had greatly advanced. The general result of conditions in this country is that the rates are about one-third of the average in England and France and about one-half of the average in Germany.

Very few substantial controversies have ever arisen regarding the reasonableness of rates, and the Commission has frequently stated, in substance, that there is no ground therefor. In its annual report for 1893, the Commission stated:

"To-day extortionate charges are seldom the subject of complaint" (p. 12). "We are not troubled with the question (under consideration in England) that rates . . . are too high" (p. 17). "It is significant that . . . there has been, under the operation of the interstate commerce law, a steady decrease of complaints based on charges unreasonable in themselves. The concession is quite general among shippers that, with some exceptions, rates, as a whole, are low enough, and they often express surprise that the service can be rendered at prices charged" (pp. 218, 219). "Traffic for very many competing localities is being carried at rates which do not yield a due proportion of the necessary net revenue which carriers must have" (p. 221). "Rates to competing and distributing centres are not for the most part unreasonably high; they are frequently quite low" (Annual Report for 1897, p. 14). "Many rates in this country are undoubtedly too low" (p. 2). These facts are of general application, because "nearly every city in the country of any considerable size is both a commercial and a railroad centre; therefore a competitive point in both respects" (Annual Report for 1893, p. 39). "It is true, as often asserted, that comparatively few of our railway rates are unreasonable in and of themselves—that is without any reference to other charges made by the same carrier or to those of other carriers," but they may operate to create a preference between localities. "The cases are *exceedingly rare* in which unreasonableness has been found merely from the amount of the rate itself as laid upon the particular traffic and the distance it was carried" (Annual Report for 1898, p. 27).

On March 18, 1898, the chairman of the Commission testified before the Senate Committee on Interstate Commerce that the question of excessive railroad charges—"that is to say, railroad charges which in and of themselves are extortionate, is pretty much an obsolete question." At that time the rate per ton per mile was within *one one-hundredth of a cent* of that in 1903. The foregoing table of rates in each year shows that since these numerous statements were made the rates have been and now are much lower.

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Accordingly, cases in which rates have been shown to be unreasonable in themselves are practically unknown. From 1887, until the present time, the Commission has found twenty-six cases of rates unreasonable in themselves, or about one and one-half annually. Further than this, not one of these decisions was sustained by the courts, and *there has not been a single case of rates unreasonable in themselves established in the courts since the Interstate Commerce Act was passed.* The record, therefore, proves clearly that the remedies provided by the act have shown no insufficiency.

The Commission suggests no facts establishing the necessity of any further power in the premises. Even as to the advances claimed to have been made since 1899, amounting to about five per cent., the Commission does not suggest that any action taken has been unwarranted or excessive. In its annual report for 1899, it said: "It is not intended to intimate that these advanced rates are unlawful" . . . but "the injustice which *may* result must be without available redress" (p. 8). In its annual report for 1903, it said: "It would be both unwise and unjust upon the part of the public to prevent them, if they are reasonable under all the circumstances" (p. 15); . . . "if they are just and reasonable, they ought not to be prevented" (p. 17).

The claim is, therefore, not that any injustice has been done in respect to reasonableness of rates—there is no one asserting that he has been damaged and the Commission does not assert the existence of any such injustice. It has full authority under the present statute to compel the carriers to cease charging the present rates if they are unreasonable, but it has never taken effective action in the matter; so far as it has gone the Commission has in general sustained recent advances (9 I. C. R., 382). The claim is merely and baldly that rates generally should be fixed by the Government (Annual Report for 1898, pp. 20, 24; Annual Report for 1900, p. 21).

As no injustice is shown arising from the present method, such expressions of opinion cannot be deemed to warrant the Government in wresting from its owners control of the railway property of the country.

2. The existing remedies are ample to enforce the prohibition of discriminations or preferences between individuals, localities

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or classes of traffic. As already pointed out, the matter of discrimination or preference between individuals has been fully covered by the original act, as supplemented by the Elkins law. The only matter remaining is that of alleged undue discriminations or unjust or unreasonable preferences between localities or kinds of traffic.

In the words of the Supreme Court:

"It is not all discriminations or preferences that fall within the inhibition of the statute; only such as are unjust and unreasonable (145 U. S., 284). Commerce, in its largest sense, must be deemed to be one of the most important subjects of legislation, and an intention to promote and facilitate it, and not to hamper or destroy it, is naturally to be attributed to Congress; the very terms of the statute that charges must be reasonable, that discrimination must not be *unjust*, and that preference or advantage to any particular person, firm or corporation, or locality must not be *undue* or *unreasonable*, necessarily imply that strict uniformity is not to be enforced; but that all circumstances and conditions which reasonable men would regard as affecting the welfare of the carrying companies, and of the producers, shippers and consumers, should be considered by a tribunal appointed to carry into effect and enforce the provisions of the act (162 U. S., 218). The mere circumstance that there is, in a given case, a preference or an advantage, does not of itself show that such preference or advantage is undue or unreasonable within the meaning of the act" (162 U. S., 220).

Claims that preferences exist and that they are unjust or unreasonable arise from the natural desire to secure equal advantages with others. "The rate is of very little consequence to the merchant, provided it is the same to his competitors as to himself" (Annual Report for 1897, p. 18). The efforts of traffic officials to meet the views of shippers and consumers in these regards have had more to do than any other cause with the reduction of rates and their proper adjustment as between different localities.

"In view of their opportunities, and the temptations to which their traffic officers are exposed, it is perhaps not too much to say that the obligations of neutrality in this regard are usually observed, and that discriminations of this character are not often the subject of complaint" (Annual Report for 1895, p. 17). "It is worth observing that some, at least, of the most important controversies involving the rates and methods of railway carriers, are rather between competing communities or producing regions than between rival lines of railway. Railway development has extended far beyond the point at which any of the greater systems finds its interests so identified with a single community

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as to feel wholly indifferent to the demands and needs of all competing communities. Indeed, there may be entire sincerity in the contention, on the part of the officers of a great system, that any adjustment which satisfies the rival communities which it serves cannot be seriously objectionable from its own point of view. In such degree as this contention may be sincerely advanced, the carrier becomes a relatively unimportant factor in the struggles of rival localities" (Annual Report for 1904, pp. 28, 29).

The efforts of the traffic officials to advance the interests of the localities which they serve will naturally continue. But, if these struggles between localities are permitted to constantly pare down the carrier's revenue, they are a factor of great danger to the success of the carrier's business. It is obvious that they will have that effect if they are to be turned over to the Government for adjustment, without interest or responsibility upon its part save to appease excited litigants.

This demand for absolute equality among localities can never be entirely satisfied. If under any conceivable form of statute the Commission could accomplish this, it would still be very questionable whether that result would be altogether desirable, as it would tend to destroy the active spirit of enterprise which is necessary to commercial progress.

"It is idle to look forward to an adjustment of rates which, as applied to localities and differently circumstanced persons, will bear no heavier upon one than upon another. Such mathematical equality is manifestly unattainable through human endeavor. Not even common control of all railways through consolidated ownership or government purchase could accomplish such a task of equalization for thousands of places and millions of persons. Certainly, the much-vaunted theory of uniform charges for all traffic would, under the greatly diversified conditions which now prevail throughout the country, have the opposite effect, and inflict greater discriminations than arise under the existing general practice of fixing charges which attract traffic to the various lines. *Uniform rate per mile on all traffic for any distance would arbitrarily limit commerce to sections and greatly restrict production*" (Annual Report for 1893, p. 218). "Trade is no longer limited to circumscribed areas; distance hardly ever bars the making of commercial bargains between widely separated parties, and almost every article of commerce finds the competing product of another region in any place of sale. The consequence is that the products of the farm, the forest, the mill and the mine are continually demanding from carriers rates adjusted to values in particular markets. It is this competition of product with like product, of market with market, that has induced carriers, in their eagerness to increase the volume of their traffic, to

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continually reduce their rates to market points. Such competition is the competition of commerce itself; the strife between competing industries which the public interest demands should be left free from fettering laws and uncontrolled by restraining combinations" (*Id.*, p. 219).

In States where railroad commissions have power over future rates, questions of alleged discriminations between localities and classes of traffic are as frequent and acute as ever. Like all commercial questions, these matters are best settled between the parties. The foregoing expressions show that the carriers, in general, use their best efforts in the premises. And the record proves that the present remedies have not been insufficient. It will shortly be shown in detail that since the Interstate Commerce Act was passed, contested cases of all sorts have been comparatively few in number, and that, *with two exceptions, the Commission has been reversed in all of its decisions as to discriminations or preferences of any sort which have been passed upon by the courts.*

The facts, therefore, show no necessity for seizure by the Government of control over railroad property in order to prevent undue discrimination or unjust or unreasonable preference.

But the most serious question is how the power to make future rates would be exercised.

The views of the Commission in that regard are expressed in its annual reports as follows:

"To give each community the rightful benefits of location, to keep different commodities on an equal footing, so that each shall circulate freely and in natural volume, and to prescribe schedule rates which shall be reasonable, just to both shipper and carrier, is a task of vast magnitude and importance. In the performance of that task lies the great and permanent work of public regulation" (Annual Report for 1893, p. 100). "No one who understands the intricacies of transportation would care to assert that the determination of a just rate or the decision as to what constitutes discrimination is an easy task. To some extent, the principles upon which taxation rests must be allowed in fixing a just rate; to some extent, the result of the rate upon the development of industries must be taken into the account in all decisions which the Commission is called upon to make; to some extent, every question of transportation involves moral and social considerations, so that a just rate cannot be determined independently of the theory of social progress" (Annual Report for 1895, p. 59). "Within certain limits it is good policy for the railway manager to increase

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his tonnage, even at the expense of reducing the rate per ton. Just how far this rule applies no one can tell. The merchant who buys an article for a definite price knows when he sells it whether he makes or loses by the transaction; and the manufacturer, as a rule, has a pretty accurate idea of the cost of production; but the railroad operator cannot ordinarily say whether he should or not as a matter of policy take traffic at a certain price" (*Id.*, p. 17). "The freight rate is a complex problem when applied to almost all competitive traffic. Very few people not acquainted with the subject have any idea how difficult the solution of that problem is" (Annual Report for 1898, p. 15). "It is often difficult to say what constitutes a reasonable rate, and more difficult to give in detail the reasons that lead to the conclusion reached; although the Supreme Court of the United States has given certain rules by which to test the reasonableness of transportation charges, and although the Commission has endeavored to apply those rules, yet whenever it has interrogated railway officials as to whether or not they are governed by them when making rates of transportation, they have invariably answered in the negative and said that to do so would be impracticable. The carriers do not apparently possess the necessary data for that purpose, and there is at present no other source from which the Commission can obtain such data" (Annual Report for 1903, p. 54). "Discriminations between localities or classes of traffic can be redressed only by the exercise of sufficient authority to readjust rate schedules to be observed in the future on the basis of relative justice" (Annual Report for 1904, p. 9). "The great bulk of our orders . . . must pertain to the future. They will be orders fixing either a maximum or a minimum rate" (Annual Report for 1897, p. 35). "It is probably near the truth to say that the cases now pending before the Commission directly or indirectly affect almost every locality, and therefore nearly all of the people of the United States" (Annual Report for 1904, p. 29).

In connection with this vast programme of regulation of the affairs of the country generally, it seems proper to mention that during the past year it has been necessary to conduct an official examination of the office of the Commission itself. It is not too much to say that these views indicate an utter absence of any tangible principles upon which the Commission would proceed in endeavoring to establish how much railway property should be allowed to earn; and an equal inability to carry out the rules laid down by the Supreme Court for the protection of the constitutional rights of such property.

The past record of the Commission shows the danger of such a grant of future power. From its creation in 1887 until October, 1904, the Commission rendered two hundred and ninety-seven formal decisions, an average of about seventeen and one-half a

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year. Action favorable to the complainants was taken in one hundred and ninety-four, or about fifty-five per cent., of the cases decided, so that the complaints coming before it which the Commission held to be well founded averaged eleven and one-half per annum. In about eighty per cent. of these cases the carriers complied with the Commission's decisions. Since 1887, forty-three suits in all have, however, been instituted to enforce finally the orders of the Commission. Of these only thirty-two have been finally adjudicated. This is less than two cases per annum. In one case the Commission was sustained at circuit and there was no appeal, as the matter was unimportant; in one case it was sustained in part by the Supreme Court. These were both cases of discriminations between localities. In the other thirty cases the Commission was reversed. *This shows two affirmances and thirty reversals.* Within the last few months, in addition to the above, the courts have overruled the two most important decisions of the Commission which were pending—namely, the Nebraska long and short haul case and the case regarding rates on hay and straw.

In other words, about ninety-three per cent. of the decisions of the Commission which have been passed upon by the courts were held to have been erroneously decided. In case, therefore, the Commission had the future rate-making power, so far as its decisions were in force until the courts passed upon them, and unless the court's power of review extended to all questions before the Commission, injustice would be accomplished in ninety-three per cent. of the cases. For this there would be no remedy, because no recovery could be had from shippers whose goods had been carried upon unjustly low rates.

It is constantly claimed that the original rate-making power is not sought, and this statement was repeated in the Commission's report for 1904, just published. The President's annual message, too, said: "I am of the opinion that it would be undesirable, if it were not impracticable, finally to endow the Commission with general authority to fix railway rates." Yet, it is obvious that the legislation now sought would have the effect of giving the Commission complete power over all rates. This point has already been adjudicated. In its annual report for 1904, the Commission said:

"The amendment now recommended would confer in substance the same power that was actually exercised by the Commission from the

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date of its organization up to the time when the Supreme Court held that such power did not exist."

The precise effect of this power has been clearly stated by the Supreme Court as follows (167 U. S., 510):

"There is nothing in the act requiring the Commission to proceed singly against each railroad company for each supposed or alleged violation of the act. . . . So that, if the power existed as is claimed, there would be no escape from the conclusion that it would be within the discretion of the Commission, of its own motion, to suggest that all the interstate rates on all the roads of the country were unjust and unreasonable, notify the several roads of such opinion, direct a hearing, and upon such hearing make one general order reaching to every road and covering every rate."

There have been several cases in which the Commission has proceeded very nearly in this way. Among the latest was the Business Men's League case, decided in 1902, which involved substantially all rates from the Mississippi to the Pacific Ocean. The extent of this power may be judged from the fact that there are annually filed over one hundred and thirty thousand tariffs, representing probably at least one million rates; that the gross earnings of the roads last year were slightly under $2,000,000,000, and the capitalization $10,000,000,000, which is dependent for its value wholly upon earning power; that the internal commerce of the country during last year was about $22,000,000,000 in value. It should be plainly understood that the proposed legislation places these vast interests under the full control of the Commission.

Every varied and complicated business must be treated as a whole. It is impossible to dissect it and treat its numerous parts separately in accordance with abstract rules, or, as the Commission says, "moral and social considerations and the theory of social progress." If the future of the business is to be subject to the control of those who have no function save to appease excited litigants, it would be better that such action should affect the business as a whole than that its income should be cut down piecemeal. The claim that the proposed plan has any conservative character, or that anything more dangerous could be devised, is based upon misconception of its real scope. Nothing could be more dangerous to the value of railway property than the system now proposed of committing its future to the control of

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persons without interest therein or responsibility for the results of its operation. The danger is that constant reductions, now here and now there, would ultimately destroy the earning power of the property.

The complicated machinery of some of the pending bills for reviewing the action of the Commission as to future rates would be no effectual safeguard. In case the action of the Commission should amount to confiscation, the right to review could not be taken away, because it arises from the constitutional guaranty of property (169 U. S., 546). But the burden would be upon the owner of the property to establish clearly that such was its character, and this would be extremely difficult where isolated rates were involved. It is illusory to suppose that any action of the Commission short of confiscation would be under the control of the courts (174 U. S., 754). Such action would be legislative and not judicial (167 U. S., 505), and probably not subject to judicial review. The Commission has clearly expressed this understanding of the matter. "If the Commission establishes a rate, that is tantamount to an act of the legislature" (Annual Report for 1897, p. 37). As one of the Commission expressed it to a committee of the Senate in 1898, "one doctrine is now settled,—that, whereas the investigation of the question whether an existing rate is a reasonable and lawful one or not is a judicial question, the determination of what the rate shall be in the future is a legislative or administrative question with which the courts can have nothing to do"; another Commissioner said to the same committee in 1900, "the prescribing of a rate is, under the decisions of the Supreme Court, a legislative, not a judicial function, and for that reason, the courts could not, even if Congress so elect, be invested with that authority." Short of confiscation, therefore, the Commission would probably be independent of any courts whatever so far as concerns future rules.

The proposed bills contemplate conferring upon the Commission entirely new power. They provide, either expressly or by implication, that the Commission shall have power to settle "the just relation of rates" by different lines at common points. This would concentrate in a single board power to determine the commercial and industrial future of all the various localities throughout the country. As the Commission has said: "Every com-

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munity and every pursuit is so dependent upon the agencies of transportation, so directly affected by the cost of this necessary service, that an inequitable adjustment of rates between competing towns or commodities would produce serious and widespread disaster" (Annual Report for 1893, p. 6). In the Differential case it fixed rates for the purpose of "distributing" the commerce of New York among the ports of the country, in flat disregard of the constitutional provision that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another" (Art. I., Sec. 9, subd. 5); on the other hand, it has just held that "it is no part of its duty to equalize differences in the natural advantages of localities through the adjustment of tariff rates" (Annual Report for 1904, p. 45). These varying principles can equally be applied to any locality in the country, as may suit the fancy of the Commission. Paraphrasing the Commission's language, this proposed legislation would "put into its hands the power to determine what localities shall pay, and what receive, tribute" (Annual Report for 1897, p. 45). As ninety-three per cent. of the Commission's orders as to rates which have come before the courts have ultimately been overruled, it is impossible to foretell what havoc would result from the exercise of such powers.

Moreover, governmental rate-making would establish rigid methods of transacting business which would tend to arrest commercial progress. The most effective cause of reduction of rates is the effort of traffic officials to enable their respective shippers to extend their business and constantly reach further markets and consumers.

> "The location of new business enterprises is frequently settled since the passage of the act to regulate commerce, as well as before, not so much by the wishes of those who control them and the advantages for economical production or trade afforded at particular places, as by the favorable transportation rates which railway managers can be induced to put in force" (Annual Report for 1894, p. 57).

This process of development can be continued only through gradual reductions of rates, and in its continuance shipper, carrier and consumer are alike interested. But this process of development will be arrested if the rates are finally subjected to the veto of a body having no substantial interest in the success of the transportation business or of the industries upon the several lines.

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Every rate once fixed would be incapable of change without a proceeding before the Commission as dilatory as a lawsuit; and, as the Commission proceeded, the scope of this rigid condition of rates would constantly extend. Every practical man must realize that business is carried on successfully by negotiation and agreement of the parties, rather than by the judgment of any tribunal. "Business by lawsuit" would be a lamentable failure. There is no successful branch of business in which the general future relations of those engaged therein are regulated by third parties, whether an administrative commission or a court of justice.

If, indeed, a condition of absolute equality among different localities could be established at a particular moment of time, it would be temporary only. Industry in this country is intensely progressive, and the perfect equality of one day would probably be the grossest inequality of another. The absence of elasticity in a system of government rate-making is one of its most serious faults; thus the rate-making State Commissions have had to fall back on distance tariffs, on account of their inability to make those delicate adjustments which are constantly made by railway traffic officers. Such rigidity is a bar to industrial progress, and probably accounts, in large measure, for the fact that in the States which have rate-making commissions, the rates are higher under similar circumstances and conditions, than in other States which have left the contract of transportation to unrestricted negotiation between the parties.

This seizure of control of railway property would be merely a step toward universal governmental direction of commerce. Congress is not given by the Constitution any special power over the carriers. The provision is that it shall have power to regulate commerce with foreign nations and among the several States (Art. I., Sec. 8, subd. 3), but the shipper of goods is engaged in interstate commerce equally with the carrier of the goods shipped. The shipper and his business are, therefore, quite as much within the power of Congress as the carrier and its business. Accordingly, the Commissioner of Corporations has just suggested that engaging in interstate commerce as a means of livelihood shall no longer be a right, but a *privilege* to be enjoyed only by those possessing a *license* upon such terms as the Government shall see fit to prescribe. The proposed legislation would, therefore, be in the direction of general socialism, which would affect manufacturers,

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shippers and carriers alike and would subject to governmental control the question of what the citizens of the country shall be allowed to earn by the use of their constitutional rights of liberty and property.

These considerations establish that such a system would be full of danger, the extent of which can scarcely be judged.

The substantial usefulness of the Commission has been in the way of settling controversies without litigation. In that way apparently about ninety per cent. of the complaints filed with it have been adjusted. This method is very useful and should be continued.

The question now is as to the remaining ten per cent. which constitute the contested cases. The delay in disposing of them has been due to the proceedings before the Commission. These consist in admitting all sorts of matter presented, irrespective of the rules of evidence (194 U. S., 25), followed by long arguments, opinions by the Commission, and ultimately an order. As the Commission has itself said, these proceedings "bind nobody and go for nothing" (Annual Report for 1897, pp. 31, 33). The Supreme Court has decided that an order of the Commission, under the terms of the Constitution, can have no force as an adjudication (154 U. S., 485, 489). These proceedings before the Commission are, therefore, merely dilatory and serve no useful purpose.

In the courts there is no delay in enforcing any meritorious claim. As already pointed out, less than two cases a year have gone to final judgment since the Commission was organized, and, with two exceptions, they have all ended in defeat of the claims asserted. In addition, the provisions as to procedure in the courts expedite these cases in every possible way. The courts act on as short notice as possible, without formal pleadings or proceedings; the constitutional protection from self-crimination has been removed by statute so that any one can be compelled to testify; cases arising under the statute have preference over everything save criminal cases; individuals or corporations violating the act are subject, whether shippers or carriers, to heavy fines, and the provisions of the act may also be enforced by decree in equity, with subsequent contempt proceedings in case of disobedience, and appeal lies directly to the Su-

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preme Court in all cases. It is clear, therefore, that there can be no delay in the courts. The proper course would be for the Commission, when it is satisfied that a case cannot be settled, to resort directly to the courts. This is the procedure under the Elkins Act which has proved successful.

The difficulty at present is that the Commission attempts to act both as prosecutor and judge. It has defined itself as "a special tribunal engaged in an administrative and semi-judicial capacity investigating railway rates and practices" (Annual Report for 1896, p. 71). To these functions it is now sought to add the legislative function of making future rates. It is one of the most fundamental principles of the American constitutional system that the functions of government are divided into three departments, the executive, the legislative and the judicial; and that these functions must be exercised by different public servants. The attempt is to endow the Commission with powers of each of these departments. In that case it would occupy the unique position of exercising all three of the powers of government. With the comparatively simple powers which it now possesses the Commission's administration has been generally unsatisfactory, largely on account of the inherent difficulties of the matter. With a large addition to those powers, utter failure seems almost certain.

The remedy lies in the vigorous enforcement of existing statutes, which prohibit rebates and discriminations; and resort by the Commission directly to the courts without dilatory preliminaries, so as to secure expeditious action by the only branch of the Government which is qualified to administer justice and determine rights of property. This will prevent unjust discriminations and undue or unreasonable preferences. So far as concerns reasonableness of the rates, it is obvious that the present method under which the Commission has power to pass upon existing rates has been effectual. But governmental future rate-making would play havoc generally, and "business by lawsuit" would be intolerable.

DAVID WILLCOX.

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PASSIVE RESISTANCE IN ENGLAND AND WALES.

BY THE REV. JOHN CLIFFORD, D.D.

IT is difficult to believe that, at the beginning of the twentieth century, Englishmen of high character and indisputable loyalty are being sent to prison for exactly the same reasons as those which were urged for committing John Bunyan to Bedford Gaol; for exposing Richard Baxter to the browbeating of Judge Jeffreys and a sentence of eighteen months incarceration; and for sending George Fox to the noisome dungeons of Carlisle and Derby, Lancaster and London. Americans cannot credit it. The Colonists of Canada and Australia say, "Can these things be?"; and even Englishmen would never accept the humiliating conclusion, if they were not confronted with the undeniable fact.

The fact is that nearly one hundred freemen of England, respectable and God-fearing citizens, have been sentenced to different periods of imprisonment since November, 1903. One of the first "criminals" was an old and feeble man who had served in the ministry of the Primitive Methodist Church for nearly forty years. His reputation was without a stain; and he was loved by those who knew him as a saint; but he refused to pay the "Poor Rate," or, more accurately, the rate for the maintenance and up-keep of sectarian schools, and therefore he was sent to prison, "weighed and stripped, put on prison fare, and sent to a plank bed"; and, as he bade farewell to a group of friends who were at the doors of his prison-house, he said, "I hope this will be the last time any man will be imprisoned for conscience' sake."

He was the first, or second, to appear at the gates of the gaol "for conscience' sake," but the "last" is still to appear. His sentence was only for six days; but the spirit of persecution expressed in, and liberated by, the Education Acts could not be content with

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so slight a penalty. It asked for more. Hence, a young Christian Endeavorer was committed to gaol for a month because he would not pay four shillings and sixpence; and when Alderman O'Connor appeared on the charge that he withheld half-a-crown, one of the gentlemen authorized to administer justice in the King's name called out, "Give him three months," and told the culprit to "put his conscience in his pocket." More recently, the magisterial Bench at Camberwell "decided to double previous sentences," and ordered a fortnight in gaol for a refusal to pay eightpence. Nor do age and long service of the State make any difference. The Rev. Thomas Champness, one of the most distinguished preachers of the Wesleyan Methodist Church, and one of the most successful workers in the villages of England, has been sent to Leicester Gaol twice; and, though he is a very old man, the indignities were increased on his second visit. Nearly all the Free Churches have had their representatives in gaol; and arrangements are being made by others (who feel that, after all, they are made to pay, when their goods are taken from them and sold) to rid themselves of all property, so that they may be in a position to pay with their persons.

Imprisonment is only one phase of this advancing cause; another is that of the public sale of the furniture, pictures and books of those who refuse to submit. The first sale was at Wirksworth, in Derbyshire, on June 26th, 1903; and it has been followed by about 1,600 more, in different towns and villages, all over England. Sometimes as many as 150 "lots" have been offered at one auction. Men and women have suffered gladly the spoiling of their goods, knowing that, in the future of English liberty and English education, they had a better inheritance, although the proceedings have often been most costly. Men earning a pound or twenty-five shillings a week have refused ninepence or a shilling or one shilling and threepence, and found themselves mulcted of seventeen shillings or one pound or even thirty shillings, because they would not be parties to the perpetration and perpetuation of what they regarded as a gross injustice. In one extremely flagrant instance, one hundred pounds' worth of goods were taken for the sum of fifteen shillings, and in many cases fidelity to conscience has meant loss of trade and of position. The resisting farmer is refused the renewal of the lease of his farm. The tailor who has become obnoxious by his witness to the

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authority of conviction is told that he cannot be trusted to make a clerical coat, unless he will help keep up the clerical school. The gardener is dismissed, though admittedly trustworthy in every way. A recent letter from the south of England says:

"Boycotting goes merrily on. In one village near here, a Resister has lost a customer of ten pounds a year. In another a tradesman has had to put up his shutters for the offence of opening a Gospel hall in a private preserve of the Church. A few more turns of the screw and—one of my friends who has lost Church custom tells me—he will have to do the same. This man declares that, if it does come to that, he will follow the Pilgrim Fathers to a freer land. Another shows me a letter from a clerical customer stating bluntly that he will deal no more with him. 'I prefer a man who minds his own business.' None of the Resisters are men of hot speech. Still, the resistance grows, and grows most in the realms of the 'boycott.'"

At a cost unimaginable by dwellers in the crowded towns the people of the villages have borne their witness, confronted the scorn and opposition of those who knew them best, and whom they had to face day by day, content to suffer so that they might be true. Sieyès said in a dark day, "The title deeds of a man's rights are not lost. They are preserved in his reason." The villagers of England have affirmed the indefeasible rights of the human spirit. The harvests of conscience increase. Each sale is followed by a public meeting of indignant protest, and fuel is added to the white-hot fires of resistance.

Nor does this show the entire range of our agitation. No less than 40,000 summonses have been sent forth by the overseers to compel recalcitrant rate-payers to appear before the magistrates and "show cause" why they will not pay. These summonses are annual in some cases, in others half-yearly, and in others quarterly; clearly, they are sufficiently frequent to keep the movement before the public. But what has aided the cause most, and made its advance independent of organization (though we have a Central Committee in London and over 600 Passive Resistance Leagues in the country), is the action of the magistrates. Some of them, it must be stated first, have been Passive Resisters themselves, and have again and again left the Bench to stand in the dock of the "criminal"; others, though they have remained on the Bench, have expressed their opposition to the Act, their desire for its speedy alteration, and their sympathy with those who

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conscientiously refused to pay. Others have resigned their magisterial dignity rather than have anything to do with such offensive statutes. But the majority of the English magistrates are Tories and Anglicans, and they have not sought to administer the law, but, as one of them said, "to make it hot" for Resisters. They have been unfair, menacing, rude, offensive and turbulent. Passion, scorn, pride, bigotry, have occupied the judgment seat. Resisters have been instantly suppressed. Drunkards, wife-beaters, have been accorded the fullest opportunity of explaining their conditions, but Passive Resisters have not been allowed to open their lips. Venerable women of fourscore, with silver hair, and tender voice and saintly mien, known to be foremost in all good works, have failed to win respect. But, as Dean Church said, "The note of failure is on this mode of repression." It suggests a bad case, compels inquiry, elicits sympathy and prepares the mind of the objector for a fresh point of view, and so the harshness of the judge becomes an effective aid to our cause.

The question of the number of the Resisters is, however, entirely inferior to that of their character and position. They are not "pantomime martyrs," as a leading politician suggested, nor "anarchists," of the vivid but biassed imagination of the Primate; nor even fractious Free-Churchmen disguising an attack upon the Anglican Church under the pretext of refusing to pay a sectarian rate! No! as Dr. Forsyth, the Principal of Hackney College, says, "Passive Resisters are not cranks with a passion for martyrdom, but men who are expressing the collective conscience of the Free Churches." Foremost in the ranks are such men as the Rev. F. B. Meyer, President of the National Council of the Free Evangelical Churches of England and Wales, and Dr. Horton, his successor in that important position; the Rev. R. J. Campbell of the City Temple, Dr. Campbell Morgan of Westminster, the Rev. J. H. Jowett of Birmingham, the successor of the late Dr. Dale, and Dr. Robertson Nicoll, the foremost journalist of the day, and editor of the *British Weekly*. But the Resisters belong to all classes and ranks. They are clergymen and ministers, journalists and teachers, manufacturers and magistrates, Members of Parliament and candidates for Parliament, farmers and gardeners, aged women and young men. In fact it is not too much to say that they belong to, and represent, a class which is the strength of our country, whose predecessors "followed the gleam" of truth and

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freedom to the New World; who have given cleansing and permanence to its institutions in the past, and are among the best pledges of its future; men in whom loyalty to conscience is a passion and devotion to liberty a religion. Never could a movement more confidently leave itself to be judged as to its motives, its soul and inspiration by the moral and intellectual qualities of those who uphold it than the present Passive Resistance movement in England and Wales.

The prominent features of this singular situation are brought home to us more powerfully by what is taking place in Wales. The space at my disposal does not permit me to describe it; but I may say that the uprising in Wales is national rather than personal; and the fight is being waged by a whole people through their elected county representatives rather than by individuals. The antagonism to the invasion of conscience by Parliament is most resolute, determined and unsubduable. In the election immediately following the promulgation of the Act, the Progressives, who are the opponents of the policy of paying for Church education from the rates, were increased by 187, and their majority in the Counties went up to 482; practically annihilating the party of sectarian education in Wales. Nor was the victory local. It embraced the entire Principality. The Government was hopelessly beaten. In the next Parliament, the Cabinet, goaded by the Bishops, returned to the attack and passed, by entirely unconstitutional methods, a special statute ("The Defaulting Authorities Act") to subsidize sectarian schools from the rates, in spite of the will of the chosen representatives of the people. But it is in vain. Wales resists more fiercely and unitedly than ever. The Government dare not coerce. So they stand over against one another, the people of Wales, and the Tory Government. What will happen this year, no one knows. One party will give in; and, so far as I can see, it will not be Wales.

A question that goes far deeper than any of these points as to the number, character and range of the Passive Resistance agitation concerns the bed-rock of principle on which it rests. What is that? What is the soul of the movement, what the secret of its spontaneous march? How came it into existence?

To answer these inquiries it is necessary to explain one or two of the facts and features of the English system of education. First, it must be remembered that it was not till the year 1870

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that our legislation made any really effective provisions for elementary education on a national scale. Prior to that time, the dominant notion subordinated the education of children to the interests of the Church, and treated it as contributory to the influence of the Church. This position had become intolerable in 1870. The ignorance of the people was appalling, and the demand for organization and efficiency strong and clamant. Other countries were advancing in educational equipment. England was being left behind. Something must be done. The task was a difficult one; but it was attempted, and the Government certainly secured a small reform. John Morley said:

"At the same time, it was clearly agreed among the government and the whole of the party at their backs, that at some time or other, near or remote, if public instruction was to be made genuinely effective, the private, voluntary, or denominational system would have to be replaced by a national system. To prepare for this ultimate replacement was one of the points to be most steadily borne in mind, however slowly and tentatively the process might be conducted. Instead of that the authors of the Act deliberately introduced provisions for extending and strengthening the very system which will have eventually to be superseded. They thus by their small reform made a future great reform more difficult of achievement."

That far-sighted statement is abundantly verified. The Act did not proceed on exclusively national principles; but endeavored to propitiate the clerics. It ought to have expelled the churches, as churches, from all state education as the United States of America and our Colonies have done; still, it must not be forgotten that, even that Act provided that the sectarian teaching should be paid for by the denominationalists, and not by citizens, as citizens. Before 1870, schools were recognized as denominational by the Government; the inspectors examined the religious teaching, and the grant was paid for that as much as for anything else. Hence, the Bishops claimed the right to test the inspectors. The inspectors were denominational, and were appointed subject to the recommendation or veto of their respective denominations. But the Act of 1870 changed all this; and our national system of education was made absolutely secular. Mr. Gladstone said on June 24th, 1870:

"We shall take care that under no circumstances shall the public grants be allowed so to operate as entirely to supply, together with

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schoolpence, the sum necessary to support those schools, and that there shall always remain a void which must be filled up by free private contributions, and, without which, failing other sources of assistance, those schools would no longer deserve the character of voluntary."

So that the citizens, as citizens, were not to pay for sectarian teaching. But even this admission of the justice of excluding sectarian teaching from public support did not satisfy the Free-Churchmen of 1870. The leaders of that day protested against what seemed to them the perilous conditions under which the principle was to be applied. The support of the sectarian school was to come in part from the citizen and in part from the Churchmen—*i. e.*, to the extent of one-third for teaching the Catechism and Liturgy of the Church of England, and to the extent of two-thirds from fees of parents, endowments and public funds. But the subscriptions of Churchmen have been a diminishing quantity, and the encroachments on the public funds have gone on and on until the sectarian schools have derived from the pockets of the citizens nineteen shillings out of every twenty spent. Nor was this enough. The cry for the rates in addition to the taxes has been going up from the clericals for years. But they were warned by the late Archbishop of Canterbury not to attempt it, for as surely as they succeeded they would lose their control of their sectarian schools. They would be on the "slippery slope," he said, in a characteristic phrase. However, they have taken the plunge, and the Education Acts of 1902 and 1903 are the results.

Those Acts destroyed the School Board system of 1870; and opened the doors for the control of the clerics in what had been thoroughly democratic institutions; they continue and aggravate the wrongs inflicted on the teaching profession (and on the nation) by subjecting its members to ecclesiastical tests, and inflicting an injustice on citizens by making entrance into a department of the Civil Service impossible except by the avowal of particular theological opinions; thus 16,000 head-masterships are closed against all but Anglicans. They deprive women of the right, conferred by the Education Act of 1870, of offering their services for the administration of the education of more than a quarter of a million girls in our cities and of two millions of girls and infants in the country. They place the sectarian schools of Anglicans and Catholics directly on the rates. Every citizen is

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forced to contribute to their up-keep; the payment of teachers, of "Nuns," and "Christian Brothers," and Anglican teachers, is derived from the rates and taxes, just as the payment of the police or of the officials of the Borough Councils. Furniture, books, machinery, Prayer-books, crucifixes, images, light, heat are all paid from the rates. Some of those books our money provides charge Free-Churchmen with being "schismatics," "heretics," and the teachers are trained to represent to the children of Free-Churchmen that the churches of their fathers are not "churches of Christ at all"; and that their existence is opposed to the teaching of the Scripture and to the good of the country. The Positivist, Mr. Frederic Harrison, says no more than the literal truth when he asserts that: "No honest mind can refuse to see that the main object, and certainly the sole result, of these Acts was to enable Catholics and Anglicans to triumph over Non-conformists."

Now, it is for that process we cannot and will not pay any rate whatever. We object to many of the provisions of the Education Acts. They are anti-democratic, unfair, unjust; they are destructive of educational efficiency and social peace; but the one thing that has created the Passive Resistance movement is not the destruction of the School Board, not the loss of popular control, but this intrusion into the realm of conscience by the State. That is the prime factor in this situation. To that "we will not submit," declared Dr. Fairbairn to Mr. Balfour when the Bill was before the House. In short, we say with Bunyan to our persecutors, "Where I cannot obey actively, there I am willing to lie down, and to suffer what they shall do unto me." For, as Dr. John Owen says, "Conscience is the territory or dominion of God in man, which He hath so reserved to Himself that no human power can possibly enter into it or dispose it in any wise." That is our case. Conscience must be free. The illuminated conscience must act. Fidelity to conviction is the life of the individual and the security of states. Regard for principle has been the liberation of moral energy and the source of exalted character. It is a religion, a religion of conscience, and it is irresistible. It does not wait the bidding of committees, or change at the mandate of courts, or heed the crack of the whip of Bishops, or truckle to priests. It acts instinctively, spontaneously, and with the swiftness and certainty of a law of nature.

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Mr. Lloyd George speaks for England as well as Wales when he says:

"I oppose this Education Act, not because it was passed by a Conservative government, but because it transgresses the essential principles of my conscientious beliefs. Had it been passed by a Liberal ministry, I would have opposed it in the same way. If the Liberal leaders agree to any compromise which continues this injustice, I shall fight them as unflinchingly as we now fight the present government. I will be no party to, will never consent to, any arrangement which will necessitate the application of the civil power of the State to the compulsory herding together of the children of the State under the sectarian teaching of the priest."

The force we are fighting, then, is not primarily political. Parliament is only its tool. It is ecclesiastical. "Clericalism is the enemy." The reversal of the broader and more just educational policy initiated in 1870, and the return to the clericalism of the beginning of the last century is due to the change which has taken place in the Anglican Church, in its ideas and spirit, its temper and aims. It is not the tolerant and inclusive church of the days of Lord Shaftesbury; but the bigoted and persecuting church of the times of Laud and Whitgift. It is a Romanized church; and in and by the English Church Union it is becoming increasingly Romanist. It is that section, the large and dominating section of twentieth-century Anglicanism, that has given us these Acts. It passed seven Resolutions on Education in Convocation: six of them were incorporated in the Bill, adopted by the Cabinet, and passed by a majority that was returned solely to end the South-African War. It is the victory of the High Church party; many of the Low-Churchmen are against it, and the Broad Church party would never have introduced it, as is evident from the sturdy resistance of the Bishop of Hereford.

No! it is the offspring of the Roman theory, and another illustration of the truth of the words of Mr. Gladstone: "Individual servitude, however abject, will not satisfy the party now dominant in the Latin Church. The State must also be a slave." In fact, this fight is a battle of principles that, like fire and water, are in eternal collision. *It is no war of this Church and that, of Bishop* and priest with minister and deacon, of Churchmen and Dissenters. The real conflict is between ideas and the systems they create for their embodiment. On both sides, the men are honest and sincere, true and devoted; but the collision is far deeper than

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the men, though the warfare proceeds through the men, and by the men; they are but the visible garniture of the ideas. The collision is in the constitutive and regulative ideas of the English Church on the one side, and the structural forces and conditions of developing English life on the other. Regal ideas—ideas that mould the character and fix the action of man, as an individual, and as a citizen, and as a Churchman, challenge each other to combat; they have done so through the long course of our educational experiments and compromises, traditions and customs, failures and successes, and they repeat the challenge with fiercest intensity just now. They consist of (1) deeply opposed interpretations of religion; what it is and how it is mediated to the souls of men: (2) different conceptions of education; where it begins, whether in the administration of a rite or in the gentle uplift of the spirit of the child on the wings of human love and character towards truth and goodness; and how it is advanced, whether by the machinery of dogma or by quickening to self-activity: (3) contrary and contradictory ideas of Christian ministry, whether it is priestly, intolerant and exclusive, or catholic and free: and, (4) dominating all, totally opposed notions of the functions and province of the State in relation to religious societies, whether Parliament ought, or ought not, to take in hand the teaching of theological creeds, or the patronage, control and financial support of one such society, or of several, or of all. These are the forces in conflict; and on these matters, the English Church has been, and is, at war, not with the Free Churches merely, but with the mass of the English people outside all churches, and with the Colonies of our great Empire, and also with the advancing life of the world.

The path of duty is clear and plain; we must offer a patient and invincible antagonism to these statutes; we can do no other. We seek the total separation of churches, as churches, and clerics, as clerics, from all State education, elementary, secondary and university. The functions of Church and State must be kept apart, in control, in cost and in every way. Let the churches do their own work at their own cost and as they will: and the citizens do theirs in their way and at their cost and without the interference of the Churches. That is the one and only way to educational efficiency, social harmony and national progress.

JOHN CLIFFORD.

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THE PANAMA CANAL—SOME OBJECTIONS TO A SEA-LEVEL PROJECT.

BY BRIGADIER-GENERAL PETER C. HAINS, U.S.A.

UNTIL within a few months, it was generally supposed that it had been definitely decided that the canal to be built at Panama to connect the Atlantic and Pacific oceans was to be a canal with locks. Recently, the discussion of the sea-level project has been revived and the desirability of carrying out the project of a canal with locks questioned. Under the circumstances, it will not be out of place to offer a few reasons why this is not good policy.

No one would think of questioning the great merits of a sea-level canal over one with locks, and yet there is considerable misunderstanding in respect to what a sea-level canal at Panama would be. To the ordinary man, a sea-level canal is one through which vessels may pass without obstruction of any kind. It is generally understood to be an open cut with no locks, like the Suez Canal connecting the Mediterranean with the Red Sea, or the St. Clair Canal connecting Lake Huron with Lake St. Clair. The construction of such a sea-level canal at Panama is not feasible.

At Panama, the south end of the canal, the rise and fall of tide is about 20 feet. At Colon, the other end, the rise and fall is only about one foot; the mean level of the two oceans being precisely the same. The level of the ocean at Panama, therefore, is 10 feet higher at high tide and 10 feet lower at low tide than it is at Colon, and this is the case twice every day. The currents, therefore, in such a sea-level canal would, for most of the time, be so swift that large ships could not be handled with safety. The only way of obviating the difficulties arising from these conditions is to provide a tide-lock. The mean level may then be maintained between the lock and the Atlantic Ocean, and the level on the Pacific side may be allowed to fluctuate 10 feet above

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and 10 feet below. The difference, therefore, between a *sea-level canal* and a *lock canal at Panama* is, that the former requires one lock and the latter requires several.

A canal with only one lock is, of course, better than one with several, but how much better? Is it worth $100,000,000 more and ten years delay? If the canal is to benefit the country as greatly as is sometimes claimed, many hundred millions more would be lost because of delay alone. The canal should be opened to navigation at the earliest time practicable. Unnecessary delay will be a misfortune. A delay of ten years will be a calamity.

Suppose some of the prophets fall short in their estimate of the value of the canal. Many people think it will not pay as an investment. It certainly is not probable that it will pay in the first few years after it is open to navigation. Canals do not, as a rule, pay at first. It takes time to establish new lines of traffic. The Suez Canal did not pay at first; and there is every reason to believe that the Panama Canal will follow the ordinary rule.

The construction of a lock canal at Panama will not prevent its ultimate conversion into a sea-level canal should the future demands of commerce require that; while the additional cost, due to the extra cost of excavation, while the canal is in use, can be borne so much better after it shall have been demonstrated that a sea-level canal is necessary. The canal is chiefly for the benefit of future generations. Why not put part of the burden of cost upon them? Why spend $100,000,000 now and delay construction ten years when, possibly, nay probably, a sea-level canal will *never* be required? The passage of a ship through one lock is only in degree less objectionable than its passage through five.

The fear seems to be that, as ships are growing larger and larger, it will only be a comparatively short time when they will be too large to pass through locks that to-day would be quite large enough. It is true that the size of ships has increased with great rapidity in the last few years, and it may be that the limit has not yet been reached. But the locks can be increased in size and the canal otherwise enlarged when the demands of commerce require it. The locks should, of course, be built in duplicate, and when it is found that they are too small, if it ever should be, one at a time could be enlarged or new ones built to take their place. That is the history of all lock canals. At first, for economical reasons, the locks are built to accommodate

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the commerce of the day, or what may be reasonably anticipated in the near future. Afterward, when the growth in the size of vessels demands it, new and larger ones are added. The argument against a lock canal is not applicable at Panama, for the reason that it can never be a canal without locks. It must have tide-locks.

The difficulties of passing ships through locks are much exaggerated. All ships have to be docked for repairs, and to dock a ship is a much more difficult operation than to pass one through a lock. With care, there need be no difficulty in locking a ship through a canal. The Manchester Canal is a *ship-canal with locks.* Its commerce is steadily growing. The *Soo Canal is a canal with locks.* The commerce passing through it annually is something enormous. The Kanawha River has been made navigable in its low stages by building locks and dams, converting it practically into a *lock canal.* The Ohio and other rivers in the United States are being treated in the same way.

It has been estimated that the water-supply of the Chagres River is sufficient for a traffic of 40,000,000 tons annually, over three times the tonnage that now passes through the Suez Canal and 10,000,000 tons more than was passed through the Soo Canal during the past year. Who can tell that the tonnage through the Panama Canal will ever reach such figures? When it does, the question of cost of conversion will be of secondary importance.

It is confidently believed that a sea-level canal at Panama will never become necessary, that a canal with locks will furnish all the facilities for vessels of the largest tonnage and greatest draft that will ever come into use; but in view of the uncertain possibilities of future commercial conditions, the canal may be built with a view to its ultimate conversion, if the necessity should ever arise. This can be done without increasing the first cost. In fact, the first cost may be somewhat reduced. Retaining walls in the Culebra Cut were recommended by the Isthmian Canal Commission; but, if the canal be built with a view to its possible conversion into a sea-level canal, these walls should be omitted, as they would interfere with that conversion. The cost of these masonry walls was estimated at about $9,000,000. Their necessity was not fully demonstrated, but in the interests of safety from caving slopes it was thought best to build them. The saving

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of $9,000,000 by omitting them would go a long way toward defraying the extra cost of the sea-level canal, if it ever became advisable. The Technical Commission did not think such retaining walls necessary and did not recommend them; from which it will be seen that engineers, who may agree as to their utility, are not of one mind as to their necessity.

In 1887, when he was Chief Engineer of the Canal, Mr. Bunau-Varilla suggested a plan for converting a lock canal into a sea-level one. The plan was gotten up for the benefit of the stockholders of the old Panama Canal Company before it became bankrupt, and had in view the opening of the canal to navigation at the earliest practicable date with locks, and at the same time retaining the idea so tenaciously held by the followers of Mr. De Lesseps of ultimately making it a sea-level canal. It involved some changes in the ordinary arrangement of the lock-gates and in the depth of canal in their immediate vicinity, and provided for excavating, while the canal was being used for navigation, by increments of about five feet. The plan is practicable, and the additional expense for the modifications in the locks should not exceed about $1,000,000. The expense of excavating would, of course, be considerably increased. To carry out his plan, or indeed any plan of conversion, it would be necessary to construct a dam at Alhajuela or Gamboa and create a reservoir in the upper valley of the Chagres, in which the freshet discharge could be impounded and from which it could be discharged into the Atlantic or Pacific ocean.

If the canal be built with locks, more time will be afforded for working out the best solution of the sea-level project. It is not a simple problem of "digging dirt," as some suppose. It involves the study of the most intricate hydraulic problems in taking care of the floods of the Chagres River and the best way of dealing with the Culebra Cut. The first Canal Company was wrecked because it failed to fully investigate these problems in the beginning. It is all well enough to talk about the scandals and extravagances of that company; but, making due allowance for these, there was still left sufficient money to build a canal with locks, if the magnitude of the problems had been fully appreciated and thorough investigation made before the work was started. The new Commission should not be hurried. The problem is too important. It is known now, though it was not

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in the beginning, that the Chagres River in high freshets may discharge as much as 50,000 or 60,000 cubic feet of water per second at Alhajuela; that at Gamboa, near where the river strikes the line of the canal, it may be about 20 or 30 per cent. more. This amount of water cannot be taken into the canal, if it be of reasonable dimensions, without destroying it. To divert this water into the Atlantic or Pacific ocean, will involve passing it through a tunnel several miles, at least, in length. What must be the size of a tunnel to safely carry 60,000, or possibly 70,000, cubic feet of water per second? To make thorough surveys and studies for the determination of the best method of disposing of this amount of water in that country will take time and the best of engineering talent. The latter may be in the possession of the Government now, but the former can only be had by delay.

When Congress passed the Act, approved June 28, 1902, providing for the construction of an interoceanic canal to connect the Atlantic with the Pacific ocean, it failed to specify in definite terms what project it intended to have executed. In fact, it is doubtful whether or not Congress had any definite project in view, except that the canal was to have "sufficient capacity and depth" to afford passage for the largest vessels now in use and such as may be reasonably anticipated. A canal may, if built according to one project, cost $100,000,000, or, if built according to some other project, $200,000,000, or $300,000,000. Did Congress intend to leave the question of plan and, therefore, of cost to be determined afterward; or did it intend that the canal should be built in accordance with some definite project? This is a question of immense importance; for, if Congress intended the appropriation for any definite project, the appropriation is available for that project, and that alone.

That the omission to state in specific terms the project it had in mind was an oversight on the part of Congress, would seem to be an unsupportable theory. Such an important matter could scarcely have been overlooked, in view of the long and tedious debates that preceded the enactment. Either a definite project was intended, or the project was purposely left open for the President to determine after a new Commission was appointed. The law provides for a new Commission to construct the canal under the direction of the President, and it may have been intended to leave to him the determination of the project, subject only to

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the limitation that it "should afford convenient passage for vessels of the largest tonnage and greatest draft that may be reasonably anticipated." If he is to be held responsible for the faithful execution of the canal project, it is only reasonable to give him a wise discretion in regard to it.

The project of the Isthmian Canal Commission was for a canal with locks. The general width of the bottom of the canal was to be 150 feet, widened in the bends according to the degree of curvature. The summit level was to be carried through the "divide cut" at an elevation that would fluctuate from 82 to 92.5 feet above mean sea-level. A single lake or reservoir was to be formed by the construction of a dam at Bohio, the water of the Chagres River was to be received into this lake and the surplus discharged over a spillway at Gigante, and thence led by diversion channels into the Atlantic Ocean. Harbors were provided at each end of the canal.

The estimated cost of the project was $144,233,358. The amount appropriated and pledged, exclusive of the $40,000,000 to be paid the new Panama Canal Company for their property, privileges, etc., was $145,000,000. It will thus be seen that the estimate of the Commission and the amount appropriated and pledged were almost exactly the same, Congress merely adopting a round sum, in place of the estimate of the Commission which gave the exact figures as they appeared in summing up the grand total.

The same similarity is seen in the figures for the Nicaragua route. The estimate of the Commission for the canal on that route was $189,864,052. The amount appropriated and pledged by the Act of June 28, 1902, was $190,000,000, a round sum, as in the other case.

The wording of the first part of Section 5 is "that the sum of $10,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated toward the *project herein contemplated* by either route." This would seem to indicate that Congress contemplated a definite project, though none is specifically mentioned. It is quite possible, however, that Congress may have used the term "project" in its most general sense, meaning a canal project of certain dimensions, and not a definite project. The condition that the canal is to be "of sufficient capacity to accommodate vessels of the largest tonnage

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that may be anticipated" would seem to imply that just what would be sufficient was not very clearly defined in the mind of Congress. The Isthmian Canal Commission offered the project of a canal with locks of specified dimensions, which would meet the prospective demands of commerce. Congress did not accept in terms the project of that Commission, nor its dimensions, but seems to have left the matter in such shape that any or all of these might be varied.

One of two things is evident: either Congress intended to adopt the project of the Isthmian Canal Commission or to leave the definite determination of it to the President, subject to the single limitation that the canal shall be large enough to accommodate the largest vessels now in use or such as may be reasonably anticipated.

There are several modifications which are not radical in their nature, do not change any of the dimensions of the canal and actually effect a reduction in cost, which it is believed can be made to advantage under either view of the law.

These modifications are as follows:

First, a reduction in the height of the summit level to about 65 feet above mean tide;

Second, the construction of a dam at Alhajuela or Gamboa, so as to create a reservoir or lake in the upper valley of the Chagres to supply water for the canal in the dry season and regulate the freshets in the wet;

Third, the omission of the masonry retaining walls along the Culebra Cut.

Several important advantages result from a reduction in the height of the summit level. During the dry season which lasts about three months, the flow of the Chagres River is not sufficient to supply the needs of navigation and the losses due to lockage, evaporation, etc. This deficiency is estimated, for a traffic of 10,000,000 tons annually, to be about 3,000 million cubic feet. If there be only one lake, as in the project of the Isthmian Canal Commission, this amount of water must be stored up in it to supply the deficiency. This corresponds to a depth of 3.4 feet in the lake. The latter will, therefore, be drawn down that amount in the dry season, and consequently, the entire summit level must be excavated that additional depth. If, however, this deficiency be supplied from outside sources, as it would be

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from a reservoir or lake in the upper valley of the Chagres, the level of the summit could be maintained at the normal without fluctuation.

But the great advantage of the two-lake system consists in the satisfactory solution it gives to the problem of regulating the Chagres River in times of floods. At Bohio, a distance of about twenty miles from the sea, measured on the line of the canal, the discharge has been found to be about double what it is at Alhajuela. It will be readily understood that, if all the water that falls into the basin above Alhajuela could be shut off, the violence of the flood would be reduced one-half; if one-third, its violence would be reduced one-third. The capacity of the upper lake may be roughly estimated by considering it as an inverted truncated cone, with a base of 11.5 square miles and a height of 40 feet, which is within limits. This would give a capacity of about 12,000 million cubic feet. The maximum discharge of the Chagres at Bohio during the largest freshet known was estimated at about 112,000 cubic feet per second for 48 hours. One-half of this is 56,000 cubic feet, which represents the amount that passed Alhajuela. If this had all been held back during the 48 hours, it would amount to 9,000 million cubic feet. It will thus be seen that the entire discharge at Alhajuela could have been held back until the violence of the flood was past, if there had been such a reservoir. But there is no need for holding it all back, because about one-half of what passes Alhajuela could be allowed to run into the lower lake during the continuance of the freshet, without damage to the work and with no inconvenience to commerce. The total amount received in Lake Bohio under this arrangement would have been about 84,000 cubic feet per second. If one-half of this amount were discharged over the spillway, the accretions in Lake Bohio would be represented by 42,000 cubic feet per second. The fluctuations in the level of the lake under these conditions would be only about five feet.

It is understood that recently a good site for a dam has been found near Gamboa, much nearer the canal than Alhajuela. If this be so, the problem of regulation is still further simplified, for the upper reservoir could be very much enlarged by the construction of the dam at that site.

The spillway recommended by the Isthmian Canal Commission

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is automatic in its action. The spillway to be constructed under the two-lake project is to be provided with gates. The Stoney system is used on the Manchester Ship-Canal and on the Chicago Drainage Canal, and would answer the purpose here. The automatic system is simpler; but, by means of the gates, the discharge is entirely within control, and this, under some circumstances, might be a matter of considerable consequence. The gate system would be the cheaper in first cost, on account of the shorter length of the spillway and the smaller amount of excavation required to convey the discharged water to the sea; but no estimate has been made of these items, the cost of operation being considered an offset.

By lowering the summit level to about sixty-five feet and creating a second lake or reservoir in the valley of the upper part of the Chagres, the lift of four of the locks can be reduced about eleven feet each. Instead of a maximum lift of 46 feet, they will have a maximum lift of only 35 feet each. This is a great advantage. For, though there is little difference so far as the ship is concerned, whether it is lifted 35 feet or 46 feet, after it has once entered the lock, it is not so in respect to the lock itself. A ship of 30,000 tons striking the lock wall, even though it be moving slowly, will set up strains, the effects of which cannot be calculated. Theoretically, there is no more trouble in designing a lock of 46 feet lift than there is in designing one of 35; but, practically, there is difficulty in constructing and operating it. All the defects of workmanship and material are exaggerated as the work is enlarged; and, if anything gets out of order, it is more difficult to repair, and the danger of something getting out of order is greater. The reduction in the lift of the locks will effect a considerable saving in their cost. No attempt has been made to estimate the exact saving, but an approximate estimate gives a saving of not less than 15 per cent. in masonry, besides a reduction in other items. As the four locks are estimated to cost about $20,000,000, it is safe to say that the reduction in cost will be about $3,000,000.

The lowering of the summit level eliminates one of the most difficult problems in connection with the canal project, viz., the construction of a core-wall in the Bohio dam. This core-wall was adopted by the Isthmian Canal Commission, partly in the interest of safety and partly to prevent seepage under it. The

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dam proposed was an earthen one, but the sandy clay foundation, on which it was to rest, was underlaid by varying strata of sand and clay; and, inasmuch as it could not be determined with certainty whether or not the sand strata extended to the surface on either or both sides of the dam, the only safe course was to assume that they did, and to provide for cutting off seepage by a core-wall of masonry extending to the rock. The rock was found in places to be at a depth of about 128 feet below sea-level, necessitating the use of pneumatic caissons to reach it. The difficulties attending the construction of this core-wall were fully appreciated, but the dam so built was regarded as perfectly safe, and all seepage, whether it might prove to be great or small, would be cut off. It is reported that recent borings at the site of the Bohio dam have shown that the rock in some places is over 160 feet below tide. If this be so, the masonry core-wall may be considered as impracticable, for pneumatic caissons could not be used to that great depth. Consequently, the dam must be built without a masonry core-wall. Under these circumstances, the reduction in height becomes almost imperative.

A masonry core-wall in a low dam is not a necessity. The ample water-supply which the upper lake furnishes will more than replace many times over any loss due to seepage, whether it be relatively great or small. There may, in fact, be no seepage at all. The irregular sandy strata may only be pockets, and this is the most probable hypothesis, judging from the irregularity of the thickness of the strata as determined by the borings. Ordinarily, when a dam is intended to store up a supply of water for a city or for irrigating purposes, the loss due to seepage may be an important matter; but, in this case, it need not be considered.

In respect to time of completion, the single-lake project has the advantage. The Culebra Cut is the feature that determines the time of completing the canal under any plan. It will require about a year to dig the extra depth for the lower level. But, on the other hand, if the canal should ever be converted into a sea-level canal, there will be just so much less excavation to accomplish it. It is not the quantity of material to be removed that gives the Culebra Cut its importance; it is the fact that the work is so concentrated that a large force cannot work there to advantage. Moreover, the excavated material cannot be deposited near by.

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It must be hauled to safe dumping-grounds where it will not be washed back into the canal. Already, the low places in the near vicinity of the Cut have been filled up, and now it is necessary to haul the excavated material several miles. The heavy part of the Cut is but little more than a mile in length. To fill this space with contractors and contractors' men would not facilitate work, it would retard it. One would as soon think of crowding workmen at the head of a tunnel. Only a certain number of men and machines can be worked to advantage, and that number is comparatively small.

The Isthmian Canal Commission, as well as the Technical Commission, proposed to give to the slopes of the Culebra Cut an inclination of 45 degrees from base to top, cut like steps in risers and treads, the former to be about twenty feet high, the latter about fifteen feet wide. No special provision was made for drainage. The treads would thus naturally drain to the front, and the rain falling on them would pour over and down the slope of the riser. The water falling on the upper step would be added to that falling on the one below, and this double amount to the one below it. The quantity would thus be multiplied by the number of steps passed. If one inch of rain falls on the upper tread, about two inches will fall on the second, three inches on the third, and so on to the bottom. If there should be as many as ten steps, corresponding to a cut 200 feet deep, and two inches of rain per hour falling, the amount of water on the last step would be 20 inches per hour. Such a rainfall, which is not unusual in that climate, would cause quite a torrent to pour over the lower risers. Gullies would form on the lower risers, even though they should not on the upper ones, and the material, unless it be exceedingly stiff, or protected, would be washed into the canal, and the stability of the slope endangered. To overcome this, it is proposed to make the risers vertical, and drain the treads to the rear, conveying the water falling on them into the canal by pipes at suitable distances. By this system of drainage, erosion will be reduced to a minimum. The stiff material of which the hill is composed ought then to stand without much tendency to wear from the effects of the weather. Slopes treated in this way, even where the material is easily eroded, retain their shape with a considerable degree of permanency. With this system of drainage, it is believed that the

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retaining walls can be dispensed with so as to admit of the change to sea-level, should it ever become necessary.

In the two-lake system, a saving of about $3,000,000 in the cost of four locks can be effected; about $4,000,000 in the Bohio dam; about $1,200,000 in the side walls of the Culebra Cut; about $1,000,000 in the extra excavation of the summit level: total, about $9,200,000. From this must be deducted the cost of excavating the summit from 85 to 65 feet, about $6,500,000; Alhajuela or Gamboa dam and appurtenances, about $2,500,000—a total of $9,000,000. The difference is so small as to be negligible; but if the canal be built without retaining walls in the Culebra Cut about $8,000,000 can be saved.

The two-lake project, as herein outlined, is practically the same as the one recommended by the Technical Commission to the Nouvelle Panama Compagnie as the best solution of the canal problem. It, therefore, has the approval of fourteen of the most eminent engineers of the civilized world.

In 1879, under the leadership of Ferdinand de Lesseps, the company known as the "Compagnie Universelle du Canal Interocéanique" was organized to build a sea-level canal at Panama. That company expended about $250,000,000 in the course of ten years and then went into bankruptcy. Under the laws of France, a liquidator was appointed by the court to take charge of its affairs. He appointed a Commission composed of French and foreign engineers. This Commission was known as the "Commission d'Etudes." It visited the Isthmus, made new surveys and studies of the canal project, and in 1890 submitted a report recommending a *canal with locks.*

In 1894, the Nouvelle Panama Compagnie was organized, with a view to investigating the canal project in all its engineering and commercial aspects. The new company called to its aid a Technical Commission, composed of fourteen engineers, drawn from all parts of the civilized world. Some of them were hydraulic engineers of great ability and world-wide reputation. Some had executed the largest canal projects that had ever been undertaken. This Commission, composed of the ablest engineers in the civilized world, after a prolonged and thorough investigation, recommended that the *sea-level project be abandoned* and that a canal be built *with locks.*

The Isthmian Canal Commission, composed of nine members,

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six of whom were engineers, was created in 1899 by the President under the authority of the River and Harbor Act, approved March 3, 1899. This Commission, after about two years of investigation, recommended a *canal with locks.*

It will thus be seen that, after the failure of the De Lesseps project for a sea-level canal, and after more thorough surveys and studies, no less than three Boards or Commissions, comprising among its members no less than thirty-one engineers, reported in favor of the *abandonment of the sea-level* project and the building of a *canal with locks.* They may all have been wrong in their conclusions, but the unanimous verdict of these thirty-one engineers, who gave years of study to the problem, should not be set aside, unless new and convincing evidence be found to justify the change. Has such evidence been discovered?

PETER C. HAINS.

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WORLD-POLITICS.

LONDON: ST. PETERSBURG: BERLIN: WASHINGTON.

LONDON, *February, 1905.*

THERE is an interest attaching to a fresh session of the British Parliament such as the American Congress, I am told, can never command. Congress makes laws. Parliament not only makes laws but unmakes governments; and it is the ever-present chance that the latter prerogative may be enforced that makes the House of Commons so full of dramatic possibilities and human attractiveness. That attractiveness is still felt, in spite of the steady and progressive decline of Parliament in popular respect and (it is not too much to say) in popular confidence. Within the last twenty years, the attitude not only of the people but of Members of Parliament towards the House of Commons has unmistakably changed. To be a Member of Parliament is still an honor, but not the honor it was. It is a claim to consideration, where it used to be a claim to distinction. It carries with it a position, but the position has been robbed of much of its old prestige. It is a commonplace of English politics that the people no longer read Parliamentary debates. The political instruction of the nation is carried on outside the walls of the House of Commons. Men still look to Members of Parliament for guidance, and guidance is abundantly supplied to them—I know of no country where the average citizen has more or better opportunities of hearing both sides—but it is not from the Front Bench at Westminster, but from the platform at huge popular meetings, as a sort of perambulating lecturer on politics, that the rising statesman, and even the statesman who has already risen, now addresses the country. Again, Parliament nowadays has to compete for popular interest with a new and multiplying host of minor assemblies. There has been within the last twenty years

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a vast extension of local government in England. County Councils, Borough Councils and municipalities have not only increased in numbers, but have quintupled their activities. Men who prefer the reality of power to its semblance and its appanages find a readier scope for their energies, can really achieve more, and, above all, can see their achievements bear immediate fruit, if, instead of entering Parliament, they throw themselves into the work of local administration. The sphere is smaller, but its opportunities are more individual; and its duties, as Lord Rosebery has often insisted, at least as interesting and far more intimately related to the welfare of society. But, though a beginning has been made with decentralization, the pressure and the complexities of public business remain more formidable than ever. The widening sphere of local activities has been more than counterbalanced by the growth and insistency of national and Imperial affairs; and the plain fact that Parliament can no longer do its work, that it is hopelessly overburdened and congested and has ceased to be an efficient assembly, lies very near the root of popular impatience and indifference. The record of the last few years, with its blazing proofs of official incompetence, has, I need hardly say, raised alienation to positive and disgusted contempt. The English people have outgrown, perhaps forever, their old innocent and touching faith in the capacity of British Ministers merely because they are British Ministers. They are demanding, almost for the first time in their history, something like a fair return for their money. They feel the need of a higher standard of administration, and they are conscious that Parliament grows yearly less competent to provide it.

Nor is this all. The difference between the outside and the inside view of things political is always great. In England, it is perhaps greater than in any other country. But in this matter of the authority, efficiency and repute of Parliament, I note a most unusual approximation between the views of the average M. P. and the views of the average elector. I have heard in the lobbies of the House of Commons expressions of weariness and discontent at least as whole-hearted as any that are uttered by the man in the street. The more earnest a Member of Parliament is, the more quickly does he become convinced that of all reforms the reform of Parliament is the most urgent. The rights and opportunities of the private member have been almost ex-

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tinguished. The Cabinet grows yearly more and more autocratic and the House of Commons more and more subservient. The last eighteen months have abundantly shown that the only question which interests the country can, by a skilful use of Parliamentary forms, be almost denied discussion by the people's representatives. The less crowded times when a measure could be debated clause by clause, almost sentence by sentence, have completely passed by. Nowadays, the closure is automatically applied at the discretion of the Government, whole clauses are voted *en bloc* without debate, and from a deliberative assembly the House is relapsing more and more into an assembly that merely ratifies and registers the decrees of the inner Cabinet. From the point of view of achievement, of the possibility of getting things done, the private member to-day is nothing and the Cabinet Minister, if he belongs to that little group which really constitutes a Cabinet-within-the-Cabinet, everything. I see no way out of the toils, unless and until Parliament relieves itself of the vast masses of purely local business that still encumber its workings, and delegates Irish questions to Ireland, Welsh to Wales and Scotch to Scotland. For matters to continue as they now are must ultimately mean the extinction of Parliamentary government of the old type and the substitution for it of Cabinet Government.

Nevertheless, as I began by saying, the House can still make its attractiveness felt as an arena of passionate personal contention; and, at times when political feeling runs high, it is still able to command the thoughts and interest of the British nation. Such a time is the present. The session that opened on February 14th could only be regarded with indifference by a people that had ceased to concern itself in politics. The mere fact that the reassembling of Parliament found Mr. Balfour's Government still in being is, in itself, one of the wonders of politics. By what desperately dexterous mystifications he has contrived to maintain a Ministry that for eighteen months has been without a majority in the country, observers in America are probably as well aware as we in England. It is at least a tribute to his mastery of the art of political legerdemain that people should be asking to-day the very questions they were asking in 1903. Is Mr. Balfour for or against Mr. Chamberlain? Is his policy of Retaliation a stepping-stone to Protection and Colonial Preference, or something complete in itself, or intended as a shelter in which Free-Traders

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may take cover until the storm has blown by? Every possible variety of reply is returned to these queries by Free-Traders, Protectionists and Retaliationists, just as a dozen men will, with equal positiveness, give a dozen different versions of the personal and political relations that exist between Mr. Balfour and Mr. Chamberlain. And such matters but touch the fringe of the vast area of speculation that lies open to every Englishman who takes the trouble to read the newspaper. Mr. Chamberlain, for instance, has let it be known that he favors an early dissolution. His command of two hundred members of the Unionist party gives him the power to force a dissolution at any moment of his own choosing. But dare he use it? Would it be policy to risk the bitterness that would infallibly ensue from any attempt to supplant Mr. Balfour, or to compel him to dissolve against his own wishes? On the other hand, can he agree to an indefinite postponement of a dissolution without a virtual confession that his Fiscal programme has failed?

Such are but a few of the problems that are agitating, not merely the quidnuncs, but men who are usually the most far-seeing of observers; and, after canvassing opinions on many sides, I find myself forced back on the unsatisfactory conclusion that nobody really knows anything. It is just this ignorance as to which, out of a score of possible developments, will be the one to take place, that gives to the present session its peculiar interest. People are prepared for anything. They are prepared for a dissolution next month and for one next year. A final rupture between Mr. Balfour and the Unionist Free-Traders; a final rupture between Mr. Balfour and the Unionist Protectionists; so prolonged and persistent a battering by the Opposition as will make further escape from dissolution impossible; a continuation of the present state of affairs, with each section of the Unionist party claiming Mr. Balfour as its own, with the Government losing by-election after by-election, yet still maintaining a sufficient majority in the House and still able to frame and to pass important measures;—not one of these developments is impossible. There are those who think, not without reason, that the Government will be out in a few weeks, and there are those who are confident it cannot survive the Budget, which falls due in April; but I do not think any one would be greatly amazed if a year hence the position proves not to have changed in any-

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thing but the unessentials. There would be, perhaps, surprise, but it would easily stop short of amazement—so flattering an opinion have people come to form of Mr. Balfour's resource in evading pursuit. I do not underrate his difficulties. He has to face an Opposition that is determined to force the fighting, and that is inspirited by the consciousness of having popular instincts and the popular judgment wholly on its side. He has to keep up to the mark some seventy Unionist Members of Parliament, who, for one reason or another, are not seeking reelection, and whose attendance and interest in the affairs of the party only clear and strong leadership could prevent from being intermittent. He has still at any cost to avoid a decisive break, either with the Free-Traders or the Protectionists. He has to beat down the knowledge that he is fighting a losing battle, and that the appeal to the country can only end in his overthrow. Nor is this the limit of the Balfourian sea of troubles. Mr. Arnold-Forster, earnest and energetic though he is, has not shown himself to be the War Minister that we all hoped he might prove. His latest scheme of Army Reorganization appears to be very little of an improvement on those famous Six Army Corps which Mr. Brodrick called into phantom being. There is a battle-royal in progress among the experts as to the merits or demerits of the new Army rifle; and on both these points Mr. Balfour, before the session closes, possibly before these lines are in print, will have to meet the attack of his own followers. Again, the Unionists in Ireland are profoundly dissatisfied. They cannot reconcile themselves to their new position of isolation and abandonment. They complain bitterly that Ireland is being governed in accordance with Irish, instead of English, ideas, and that the Under-Secretary, Sir Anthony MacDonell, a Catholic and a Home-Ruler, is really playing the Nationalist game under the protection of a Unionist administration. They, too, will prove a thorn in Mr. Balfour's side. It seems incredible that he should emerge unscathed from such a concentration of onsets and difficulties. But I do not expect that he will yield easily. He is a Scotchman, and therefore a fighter, and therefore never more dangerous than when he has his back to the wall.

Anglo-German relations are to-day, as they have been for the past ten years, disquieting and unsatisfactory. How much so, may be judged from the recent "scare" over Mr. Arthur Lee's

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speech. Mr. Lee is a Civil Lord of the Admiralty and an excellent type of the men who will yet reorganize English administration—efficient, hard-working, large-minded. In a speech to his constituents some days ago, Mr. Lee was reported to have said that, "if war should unhappily be declared under existing conditions, the British Navy would get its blow in first, before the other side had time even to read in the papers that war had been declared"; and he prefaced these words with a statement that Great Britain has now "to keep an anxious eye, not only on the Mediterranean and the Atlantic, but on the North Sea." Mr. Lee has denied that he ever said anything about the British Navy getting its blow in first, and has maintained with perfect truth that the rest of his statement amounted to no more than a general statement of self-evident principles and of facts that had already been published to the world when the redistribution of the British Navy took place. The alarm, however, in Berlin was intense. The German Emperor sent for Sir Frank Lascelles, the British Ambassador, and asked for explanations. Sir Frank telegraphed to Downing Street for instructions, and was told to tender the most ample assurances. There can be no doubt that both popular and official Germany thought, and probably still thinks, that Great Britain may one day plan and carry out a sudden and secret onslaught upon the German Navy. Writing for an American audience, which knows something of British character, history and policy, I need hardly take the trouble to expose the preposterous baselessness of such a notion. On the English side, there is an equally firm conviction that, were the British Navy in difficulties, the neutrality of Germany could not be counted on; and there were certain incidents connected with the North Sea outrage and the sudden withdrawal of large German deposits in the Bank of England that lent undoubted color to the conviction. All cannot be said to be well between two Powers when each believes that the other is only waiting for its opportunity.

ST. PETERSBURG, *February, 1905.*

IT is only the unexpected that happens in Russia at present; and, before the observer has time to gauge its significance, it has generally been followed and sometimes outdone by something more unexpected still. A vortex of amazing changes wearies the

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eye and blunts the understanding. To write seasonably, therefore, of current events in Muscovy, one should be a special correspondent or an inspired seer recording one's impressions in urgent telegrams or genuine prophecies. The mere chronicler, however satisfactorily he may "shoot folly as it flies," is left far behind by the swift whirl of events, between which one often misses every trace of a causal nexus. Seemingly, motives have no time to act upon men whom impulse urges forward or drags backward irresistibly. What happens to-day is not the sequel to the occurrences of yesterday, and affords no clue to what will surely take place to-morrow. There is no coherence in things, there is no union among persons, there is no centre, no head, no guiding brain: autocratic rule is become anarchy. The Tsar issues a manifesto or a ukase which promises reforms. The people grumble because the concessions he makes are too slight; but they never doubt that they are real. Indeed, the grudging way in which he doles them out is held to be proof sufficient that they will be realized. And yet the Government, by its deliberate acts, laughs to scorn the Tsar's confession that caprice is supreme and his resolve to set law and justice in its place. For example, Nicholas II had said in his ukase that the mission of the press was to make known to the ruler the needs of the people, and that it would therefore enjoy a corresponding degree of liberty. But, far from relaxing their iron grip, the censors tightened it. Some newspapers were wholly suppressed, others suspended, very many punished. The most "harmless" daily paper or review has now to perform a whole series of rites and ceremonies before it can publish even the simplest illustration. The picture must be sent for authorization to (1) the general censorship; (2) the military censors; (3) the court censors; (4) the ecclesiastical censorship; (5) the department of non-orthodox religious confessions; (6) the chancellery of the Governor-General; (7) the chancellery of the police Prefect; (8) the Ministry of Foreign Affairs. If it passes through all these ordeals unscathed and has not lost its charm of novelty in the waiting, it may be set before the general public, which is obviously unfitted to read articles or see illustrations which the censors can peruse and admire with impunity. And, to crown and summarize this whole system of muzzling, the Emperor's own ukase was suppressed by some Governors in the interior, and the attempts to make it public were for a time thwarted! Instead of

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resenting this, however, the Emperor approved it; and, to everybody's amazement, a ministerial circular, issued by the express order of the Tsar, destroyed with a few strokes of the pen the slender hopes of the people, and explained away his own clearly worded statements and definite promises of a few days before.

But the most striking contrast between promise and achievement was offered by the blood-bath of Sunday the 22nd January, known as "Vladimir's Day" because the Grand-Duke of that name was then in command of the "active" troops. The shooting down of unarmed workmen, which there was nothing to excuse, was the first solemn act of the Imperial Government after the Tsar had written that the desire of his heart was to do away with official caprice and establish the reign of law. Over 100,000 workmen, accompanied in many cases by their wives and children, resolved to repair to the square in front of the Winter Palace to petition their "Little Father" the Tsar. Their object was to secure his sympathy and help in their distress, for they had been rebuffed by the bureaucracy; their means were a written petition containing a list of their needs; trust and loyalty marked their disposition. To bring out the peaceful character of the demonstration in still sharper relief, they arranged to march in procession headed by a priest in his vestments and preceded by men bearing crosses and portraits of Nicholas II. They virtually said to their Emperor: "There is no ruler in Russia but you. Hitherto your will has been law even when you willed that hundreds of thousands of your people should perish in Manchuria. Let it now become law in order that we, millions of the men who are the pillars of your empire, should live in Russia. We still believe in you, because we hold that, if you once know the facts, your kindly nature will prompt you to act upon them. And we know that our hope will be fulfilled."

The Tsar, all his advisers, and practically all Russia and the world knew beforehand of the workmen's intention. The educated classes of the capital besought the Ministers to induce the Emperor to receive his people and to keep the troops within-doors on the Sunday. But the Ministers had no eyes or ears for symptoms or advice. One pleaded that it was not his province to interfere; another that he could do nothing because measures had already been devised by the Government and would be taken when the time came. A third refused to receive the deputations.

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Nobody could be found in St. Petersburg who could or would admit that he had any voice in the matter. In a word, there was no Government; no head, no Tsar, nothing but anarchy.

When on the morrow the sun rose on hundreds of thousands of workingmen making their slow pilgrimage from the outskirts of the city to the Winter Palace, it shone on a strong military government and upon hundreds of tsarlets. Grand-Duke Vladimir was the supreme commander, and he had appointed Prince Vassiltchikoff to be his factotum. There was no hesitation now, no shilly-shallying or shirking of responsibility. Every one knew his business thoroughly, for it was limited to the shedding of blood. And before they even suspected that their road would be barred, the peaceful people were shot down like mad dogs. No attempt had been first made to disperse them—which a few hundred policemen could have easily done, even without truncheons; in many cases no order was given them to turn back, so that the first intimation they had of what was coming was the blood that dyed the crisp white snow and the moans and shrieks of their comrades that broke upon the Sabbath stillness. The soul-chilling scenes that followed have been hastily described in newspapers; they deserve to be epically depicted in a latter-day Inferno, for they brought back the worst days of mediæval cruelty and heathen heartlessness. Women with child were found among the slain. Babies in their mothers' arms had their brains blown out; passers-by who were hurrying away were pursued, overtaken and hewn to pieces. Fleeing lads were followed into houses, caught on the third or fourth story and shot through the heart. "We must give them a lesson," the Grand-Duke had said. And it was duly given!

The dead were hidden away in hospitals, police stations, the fortress, anywhere; and orders were given to withhold their names. Funerals were announced for the morning, but the bodies were buried hastily at dead of night, and the relatives of the "deceased" are still uncertain whether the missing kindred are living or dead. A journalist who was passing near a crowd was thus shot, snatched away and put under ground. His young wife discovered an unburied coffin with his name on it, and, having got the lid raised by the authorities, found the corpse of another lad inside. Subscriptions for the widows and orphans of the victims could not be collected. It was forbidden to all

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and sundry to manifest sympathy or sorrow for the dying or the dead. The newspapers were not allowed to subscribe or receive subscriptions. Money sent from abroad could not be distributed. It was a crime to give or take. Friends who met at night in private houses to discuss the events of the day found themselves surrounded by the police, who raided their dwellings and searched for money and treasonable documents. "Revolution" some people had fondly called the movement. But it was not a revolt, not even a riot, nothing but a "wholesome lesson" administered by Autocracy to the mutinous classes who never know when they ought to feel satisfied. In such terms the official press commented on the events of those historic days. But revolutions have often had smaller beginnings than the episodes that characterized the Sunday of January 22nd on the banks of the ice-bound Neva. Russia was and is in revolution.

The outside world was horrified. A cry of indignation arose from Paris to Peru, from Tokio to Rome. The Autocracy was declared, even by its foreign friends, to have lost its *raison d'être,* and the Russian dignitaries who on parade days in the Winter Palace constitute the Government of the Empire, heard the foreign groans and hisses and trembled. The Grand-Ducal band remained indoors, and not always in their own palaces. The windows of the palace of the Grand-Duke Sergius were smashed. Prince Mirsky drafted an imperial ukase creating a Governor-Generalship, appointed General Trepoff to the post with almost dictatorial powers and had it signed by the Tsar. The principal literary men of St. Petersburg were arrested and hidden away in the fortress, among them all the members of the delegation—including Maxim Gorky—who had petitioned the Ministers to hinder the effusion of blood. Ladies and girls were apprehended, insulted, incarcerated. An order was issued to prepare 500 cells in the various houses of detention, and people spoke with bated breath of the Reign of White Terror.

But again the unexpected happened. The Governor-General, whose character fame described as a mixture of cruelty, stupidity and personal courage, played the part of forerunner of the political millennium. He disavowed responsibility for the arrest of the men of letters. Instead of suppressing liberal newspapers, he tolerated articles more outspoken, more provocative, than the strongest that Prince Mirsky had ever allowed, and, stranger

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still, he sent for and cajoled the Liberals, beseeching them to possess their souls in patience for a few days, after the lapse of which he could promise them a new era. The writers, journalists and professors who were interned in the fortress were set free, first one then another, and the cobwebs were allowed to cover the corners of the 500 newly prepared cells. The workmen, too, were received by the Emperor—some threescore of the trustiest and most loyal "hands" for whose good conduct the principal employers of labor could vouch. And, even then, the operatives were not informed that they would be taken to see the Tsar. At first, they were conducted to the Winter Palace in St. Petersburg, where the Emperor was not residing, and then to Tsarskoye Selo, where he pronounced a discourse in which bitter and sweet were curiously mixed. He rebuked their comrades for allowing themselves to be "duped," and declared that he and not the deceitful Liberal party was the workman's friend. The thirty-three operators went home revolving in their minds the things they had seen. The Tsar also assigned 50,000 roubles to the widows and orphans of the people killed by his soldiers, whereupon his humanity and sympathy with human suffering were praised. But, the very day before, that same humanity and sympathy with human suffering displayed by the Tsar's subjects were condemned by the Tsar's officials as crimes against the State. Even morality in Russia is reeling and unsteady.

Sunday's massacre has been regarded as a triumph for the cause of Autocracy. In reality, the crackling of the soldiers' rifles was its death knell. Never again will the relations between the Tsar and the people be as before. As Father Gapon put it: "There is no longer a Tsar." The theory of the Little Father and his devoted people is exploded. There is now but a Russian Nation seeking to better its lot, as the workers of St. Petersburg sought to improve theirs, and the only obstacle they encounter is the Tsar. All Russia has besought him to step aside and allow the people to participate in the government of their country, and many of his best friends, like the Zemstvos, have warned him of the danger of refusing. Several hundreds of professors and academicians in St. Petersburg, representatives of the intellect of Russia, have petitioned him in firm language to grant a constitution. The legal bar of the capitals have put their view on record, that Russia cannot and will not endure the present

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anarchy much longer. The Zemsky Assembly of Kharkoff, including the marshals of the nobility and the local noblemen, adopted an address to the Tsar by sixty-six votes against four, in which, congruously with the terms of their oath binding them to communicate to His Majesty everything of interest to himself or the State, they resolved to speak plainly and truly. And this is what they said: "Long years of bureaucratic oppression, violence, arbitrary rule, impoverishment and total disfranchisement of the people, utter violation of the principle of freedom of the person, of thought, of conscience, and of speech, have created a state of things in the Empire which can no longer be endured. These same conditions are bringing down the future storm now pending, of which the first thunderous symptoms are already audible. That tempest is fraught with bloody civil war to our country and with subversion to your throne. Sire, ward off those calamities from the Fatherland before it is too late. . . . Your Majesty, it is not enough to make laws, it is indispensable to see that they are observed, it is indispensable to guarantee to the people its rights, it is indispensable to exercise wakeful vigilance. And no bureaucratic system can accomplish this. Bureaucracy has already forfeited the confidence of the country. Neither is any monarch, however great he may be, able to know everything, to act for all and alone to be responsible before God and the nation for the destinies of his Fatherland. Do not trust, sire, to negligent and wily servants, but repose confidence in the chosen representatives of the nation. Hasten to convoke them to a permanent Chamber endowed with legislative powers, and qualified to see that the laws are not broken, that the Treasury is not robbed, and that the milliards accumulated from the nation's mites are employed suitably and for proper purposes."

From the most out-of-the-way corners of the Empire, similar addresses, petitions, resolutions came in by every post. All thinking Russia joined the opposition and took from the rulers every pretext for affecting ignorance of the state of public feeling and opinion. Government by violence is still possible for a time, but so, too, is opposition by violence—such opposition as put a sudden end to the system of Plehve and Sipyaghin, of Bobrikoff and Johnsson. Force can do much in Russia for and also against the Autocracy, but it cannot make a ruinous system beneficent. You can do anything with bayonets, except sit upon them.

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Looking back upon the events of the past few weeks, one is struck with certain features which characterize the revolutionary movement in Russia and differentiate it from analogous movements in all other countries. In the first place, it was not the result of a deliberate plan, not even of a conscious resolve. It was spontaneous, elemental. The ground was so thoroughly prepared by generations of misrule that a general manifestation resulted, as spontaneous combustion does. Every class, every section of society was discontented and had ample grounds for kicking against the pricks. Political electricity was in the air, and it was felt that anything, anywhere, might attract it and unleash the storm. The proximate cause was insignificant in itself. A petty dispute between operatives and employers, in steel-works outside St. Petersburg—a misunderstanding which could have been settled in ten minutes—was the origin. The operatives, strange to say, were all members of an ultra-loyal association, founded by the police as a dam to keep back the Socialist and revolutionary current amongst workingmen. The members of the union were allowed to meet, to make speeches, to have a private theatre, to read books and newspapers, and to count on Government support in disputes with their employers. These were some of the heavy bribes paid for their political loyalty.

The leader of these police myrmidons was an Orthodox Russian priest, George Gapon—a semi-educated, fanatical individual, who is capable of kindling heroic fire in the breasts of the crowd, but is no born leader. He grew, mentally and morally, together with the events of the moment, until he attained the proportions of a popular hero. As a matter of fact, his intellectual and ethical greatness have been enormously exaggerated. In the course of three days, Father Gapon imparted to the economic movement a political tinge. As the authorities had refused to grant the workmen's original demands, alleging that political obstacles stood in the way, Gapon answered: "Then the political obstacles must go." But only to that extent was the demonstration political. Russian men of light and leading in literature, journalism, science and art had no appreciable influence upon the agitation. There was no point of contact between the two groups. Even among the "Intellectuals" themselves, there was no unity, no organization, no plan. They sat and talked, and did nothing but prove to the world their utter inexperience in

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matters political. Among them all, there was not one leader. The authorities are said to have suspected a number of them forming a Provisional Government. They might as well accuse them of hatching a plot to introduce the religion of ancient Egypt among the subjects of the Tsar. It was pathetic to look upon their helplessness.

The whole movement, then, was spontaneous, peaceful, loyal. A clever minister would have utilized it to prop up the Autocracy. But the authorities in St. Petersburg had it arrested by measures which history will classify with those taken at Blagoveshtshensk and Kishineff. Then the population of Russia openly sympathized with the strikers, and in most of the chief towns struck work or actually took up arms,—as in Riga, Warsaw and elsewhere—against the Autocracy. Even Witte, the ex-Finance Minister, who is charged with realizing the reforms outlined in the Imperial ukase of December, is reported to have exclaimed that in St. Petersburg, on January 22nd, "A crime was committed which neither God nor the nation will ever forgive."

But the Autocrat is still unconvinced. He may, probably will, grant a Zemsky Sobor or Assembly of Notables. But he will not consent to the introduction of constitutional government or the curtailment of his unlimited power. And, so long as he persists in that resolve, Russia will be in revolution. If his rule be upheld by open violence, the opposition of his people will be conducted by secret violence; and the historic happenings of the near future are certain to be direct resultants of the meeting and clashing of these two forces.

BERLIN, *February*, 1905.

THE most significant result of the gigantic strike of colliers in Westphalia is, undoubtedly, the impetus it has given to the movement for the nationalization of the coal-supply. Prussia, as all the world knows, is the classic land of State Socialism. Its Government administers the complicated machinery of the Insurance Laws, superintends the management of immense forests and landed estates, and is one of the largest employers of industrial labor in Europe. All the railways in Prussia are the property of the State, which works them with a single eye to the promotion of the national interests. If there is no rate-cutting in

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Prussia, there is, on the other hand, no discrimination and no undue raising of freight charges. The railways, in fact, have been converted into the handmaid of the manufacturing industries, which have profited enormously, both in their home and in their foreign trade, from the scientific regulation of the transport tariffs by a paternal government. Moreover, the surpluses yielded by the railways have contributed materially to lighten the burden of taxation. The advantages of the system are accompanied, of course, by many drawbacks; but, on the whole, the experiment begun by Bismarck has proved a decided success. If a plebiscite could be held on the subject to-day, it would be found that the conception of the railways as a State enterprise has become part and parcel of the national consciousness, and that the idea of a reversion to the principle of private ownership would be distasteful to the multitude. Yet, there has been no widely expressed desire that the State should seek systematically to extend its duties as an employer of labor. Despite the arguments of the Katheder Socialists, who from their professorial armchairs have frequently preached the doctrine of the State-ownership of mines, a deep-rooted aversion has prevailed against the assumption by the Government of responsibilities which would entail the addition of fresh brigades to the already vast host of those who look to the State as the source of their well-being. The change which is now coming over the feelings of the educated classes and the attitude of the Government is a direct consequence of the extreme views enunciated and enforced by the coal magnates themselves. Obviously, the State cannot tolerate the establishment of a private monopoly in coal. It requires coal for its railways, for its navy, and for its army. When, therefore, the Westphalian pit-owners constituted themselves into a vast syndicate, thereby depriving the entire industry of the benefits accruing from individual ownership and competition, the Government endeavored to enter into a compromise with them. It proposed to become a member of the syndicate, and to exercise at least an advisory voice in its affairs. The Government did not, it is true, take the coal-owners into its confidence, but began secretly to purchase shares in the "Hibernia Company," which is one of the biggest partners in the combine. The manœuvre was naturally detected, and the coal-owners declared with one accord that they refused to admit the Government to their ranks. A special meeting of the shareholders

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of the "Hibernia" was summoned and its assent obtained to the issue of new and quite superfluous stock, which the Directors reserved for themselves, thus preventing the Government from obtaining a majority of shares. The Directors based their action on the argument that the policy of the authorities was to insert the thin end of the wedge of nationalization into the coal industry. They affirmed that they must remain the sole arbiters of their own property.

And, just as the controllers of the syndicate rejected the co-operation in their enterprise of the Government, so, on the other hand, are they determined to tolerate no interference from the trade-unions. Their contract, they affirm, is with the individual workman and not with a coalition of workmen. In other words, their determination is to deny to the working-man the right of combination which they themselves have exploited to its fullest extent. A similar attitude on the part of the pit-owners was the main reason of the general strike of 1890. The Emperor William then embraced the cause of the men. He received a deputation of their leaders, and informed the masters that their refusal to negotiate with the delegates appointed by the colliers was unjustifiable. The dispute was eventually settled, and the coal trade of Germany—the finest barometer of its industrial prosperity—expanded by leaps and bounds. In the course of ten years it doubled its output. To-day, two hundred and seventy thousand colliers are employed in Westphalia, whereas in 1890 the number was not more than one hundred and twenty thousand. The profits secured by the majority of the pits have been enormous, but there has been no corresponding increase of wages; and, in many cases, the men have been treated with a cynical brutality which goes far to explain the growing insistence of the cry for Government intervention. Only last year, the owners arbitrarily closed several pits which had been worked for generations, and around which the pitmen had built their own dwelling-houses. Thousands of men were thus deprived of their homes and sent wandering in search of other work. Not for one moment was it contended that the pits which were closed had been exhausted; but, in pursuance of the syndicate policy, which is to regulate the output, it was deemed advisable to transfer the amount of production allotted to those mines to larger mines, and in this way to effect a saving in the total working expenses. Of compen-

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sation to the colliers, whose house property was deprived of its value by the measure, not a word has been heard; but it is not improbable that the Government will now introduce legislation designed to limit the right of owners to close their mines. The contention publicly advanced by the mine-owners, "We can do what we like with our own property," cannot, it is felt, be allowed to pass unchallenged by the State. It was in the spirit of that contention that the Directors of the Bruchstrasse pit, about the beginning of the new year, ordained the extension of the time to be spent by the men underground. The illegality of the order being obvious, it was withdrawn, but only to reappear shortly afterwards in another form. The men were touched on the quick of their grievances. For years they have complained of the loss of their "inherited right to an eight hours' working-day." At present, they work nine and often ten hours underground, and the tendency, unhappily, is not to reduce but still further to increase, by means of extra shifts, the duration of their daily employment.

Here we touch upon a vital point of difference between masters and men. The men contend that their duties actually begin when they enter the shaft. They point out that the exertion entailed by the long journey along dark and narrow passages, to and from the face of the seam, is quite as exhausting as the process of cutting the coal. And as the shafts grow deeper and the number of colliers employed more numerous, so does the time expended in this operation tend to extend. But the masters, far from admitting the justice of the views thus enunciated, have given the colliers to understand that they must expect in future an even greater measure of severity. That was the meaning of the proclamation posted up in the Bruchstrasse pit announcing that the "*Seilfahrt*," or passage up and down the lift, would, after the first of February, occupy from half to three-quarters of an hour longer than has hitherto been the case. No sooner had that notice appeared than the colliers began to strike. The trade-union leaders, who are credibly reported to have planned a general strike for the spring, seemed powerless to stay the movement. Within a week, nearly seventy thousand men had ceased to work. Confronted by this situation the trade-unions—both Social Democratic and Christian—decided to formulate their demands. They did so in the humblest manner. Their communication to the Mine-

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Owners' Union, like the memorable despatch of the Japanese Government to St. Petersburg, may have been an ultimatum in substance, it was far from being one in form. All that the trade-unions requested, with the "most devoted" expressions of their respect, was that the masters would assent to a conference for the discussion of the points of difference. The men demanded, they explained, the establishment of a maximum shift of eight hours, including the operation of ascent and descent, but they were willing to continue their labors this year on the basis of a nine hours' shift, if the masters would consent to reduce it next year to eight and a half hours, and in 1907 to eight hours. They further required the abolition of overtime and Sunday labor, excepting for the purpose of rescuing human life or of effecting extraordinary repairs. The third demand of the men had reference to the practice of withholding payment for all trolleys which are found to contain dross as well as coal. It was argued that, in the dim light and in the haste which prevails at the face of the mines, it is often impossible for the workmen to distinguish stone from coal, and that it is only just that they should be paid for the actual amount of coal obtained by them. Finally, the trade-unions put forth on behalf of their members the demand for humane treatment of the colliers by the officials, punishment of any officials who are convicted of abusing or maltreating the men under their supervision, and recognition by the mine-owners of the organizations formed by the men for the protection of their interests.

The reply of the Mine-Owners' Association to the trade-unions was conceived in the spirit of an address by the Russian Emperor to his misguided subjects. The association adopted the standpoint that the colliers had been guilty of illegal conduct in leaving their work without giving due notice of their intention so to do. With men who had broken their contract, the masters could not negotiate. To do so would be equivalent to countenancing their breach of faith. Equally impossible was it for the masters to recognize anything in the shape of trade-unions or workmen's committees. "Our contract," they said, "is with the individual working-man, and accordingly we can only negotiate with the working-man individually. The demand that recognition shall be accorded to the trade-unions is merely designed to promote the interests of the Social Democratic party, which aims at the sub-

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version of the existing order of society." The autocratic attitude of the masters was followed on January 18th by the proclamation of a general strike. The proclamation was obeyed by not quite two hundred thousand of the men. The Government, animated by the desire to rescue German industry from the evils of a prolonged and embittered conflict, at once despatched to the centre of the coal district commissioners charged with the task of bringing about a reconciliation between pit-owners and pitmen. It soon appeared, however, that the owners were not amenable to mediation on the part of the Government. They refused even to attend a conference with the representatives of the men to be presided over by the Government commissioner. The men, they said, must return to their work unconditionally or not at all. Words and actions of the owners in fact gave color to the suggestion that, foreseeing the inevitability of a conflict, they had deliberately provoked it at a moment most unfavorable to the prospects of the workers. Unfortunately for themselves, they overstrained the patience of the Government, already considerably irritated by the "Hibernia" controversy. Though at first disposed to re-echo the cry that the strike was the result of Social Democratic agitation, the Government discovered, before a week had elapsed, that the country expected it to intervene, and not merely to mediate, in favor of the colliers. Public opinion, indeed, had worked itself up to a high pitch of indignation against the masters and their claim to dispose as autocrats of their own "property." Even the Roman Catholic Archbishop saw himself constrained to contribute to the strikers' funds. His contribution brought dozens in its train. But, though the funds of the trade-unions swelled gratifyingly, it was generally foreseen that, without Government intervention, their cause was lost; for, as soon as the strikers had exhausted their wages and savings, a sum of more than three millions of marks weekly would be required to keep them and their families from starvation.

The initial rebuff to the masters was administered by the Prussian Minister of Commerce, Herr Möller, who, from his seat in the Reichstag, officially censured them for their uncompromising attitude. The Minister further improved the occasion by testifying that the strikers were innocent of the charges brought against them by the masters, of terrorizing those working-men "who are willing to work." A few days after the delivery of this repri-

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mand of the pit-owners, the Government announced that it had decided upon the introduction of legislation designed to remedy the complaints of the strikers. The new Bill, it was explained, would render it impossible for the masters to extend in an arbitrary fashion the time occupied in conveying the men to and from the mines. It would prohibit the system of withholding payment for trolleys of coal containing dross, and restrict the rights of the managers of pits to order extra shifts. Various other grievances advanced by the men, the Government announced, would also be remedied by the Bill. In view of these measures, it is already possible to say that the strike has been successful.

Viewed in the light of history, it may be said that the relations between the Governments of Russia and Prussia reveal in fact nothing more nor less than the existence of a Mutual Insurance Agreement against the effects of Revolutions and Insurrections. It was, therefore, not without a certain symbolical significance that the German Emperor, two years ago, should have addressed to the Prussian Regiment of his Russian brother those impetuous references, which aroused much excited comment at the time, to the duties of soldiers who are called upon to annihilate the "internal enemy." Equally suggestive is the fact that when, in the autumn of 1903, His Majesty considered it incumbent upon himself to exhibit the strength of his army in Posen, the capital of his Polish Province, he invited to the festivities as his most honored guest General Tscherkoff, the Governor of Warsaw. The object of that invitation was, of course, to demonstrate to the Poles the completeness of the agreement subsisting between the Courts of St. Petersburg and Berlin. That agreement was never more cordial than at the present moment, and for this reason, quite apart from contingent possibilities, the sanguinary scenes which are now passing in Russian Poland, as well as in other parts of the Muscovite Empire, are being followed in Berlin with a peculiar intensity of interest. Already, the spokesmen of the German governing classes are identifying themselves, as far as political morals are concerned, with the line of action taken by the St. Petersburg dictators. The mob of January 22nd, they declare, was entirely in the wrong, and the State would have been lost irretrievably if it had shrunk from employing "grape-shot"—Napoleon's unfailing remedy—for the beneficent purpose of correcting the people's perverted sense of perspective. And, in

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consonance with this doctrine, the troops in Berlin have been instructed afresh, in the words of the Emperor William's celebrated address of 1891 to his Potsdam recruits, that if—"which God forbid!"—disturbances, similar to those in Russia, should ever occur in Germany, it would be their immediate and sacred duty to make effective use of their weapons in the work of suppression. The Social Democrats, on the other hand, are proclaiming that, "if" they could now give substance and a form to their ideal State of the Future, they would mobilize its armies and with them cross the border in order to aid in rescuing their Russian comrades from the autocratic yoke.

Meanwhile, it is felt, the functions of a good neighbor, which Germany notoriously aspires to be, must be confined to the task of keeping order on the border, and of preventing, so far as possible, the construction in neutral territory of political mines designed to explode with devastating effect beneath the feet of those who represent the existing Russian régime. From this point of view, it is deemed justifiable to impose arbitrary restrictions on the liberty of Russian subjects to establish themselves in German territory, and to admit Russian police spies to positions of authority in the Empire, in order that they may control the actions of those of their compatriots whom it may not be convenient, without definite and positive information, to expel. Within the last few months, a Russian Department has been added to the organization of the Berlin Police—so rapidly has the scope for such work, by the growing indulgence of the Government, been allowed to expand. To the indignant protests of the representatives of the more liberal schools of German thought, who describe such institutions as a prostitution of authority, a deaf ear is turned; for does not the work of Russian spies in Prussian territory come within the terms of the Mutual Insurance Agreement? Moreover, it is argued, the unrestricted importation into Russian territory of revolutionary schemes of organization would tend to weaken still more the existing régime, which just now it is Germany's chief interest to support. For a Russian Empire, debilitated but not exhausted by war, with its centre of gravity shifting ever more to the East, represents to the mind of German statesmanship the ideal of a neighbor; while a Russia, delirious with the fever of revolution, conjures up visions of endless perils, not all of them necessarily associated with Poland.

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The German Government has at last succeeded in substituting new commercial treaties for those which were concluded during the Von Caprivi Chancellorship. Count von Bülow is naturally triumphant. He owes his victory to the defeats suffered by Russia in the battle-fields of Manchuria; for it is an admitted fact that, if she had not been in pressing need of financial assistance, Russia would never have consented to swallow the German minimum tariff on cereals. After Russia had capitulated to the terms dictated from Berlin, Austria-Hungary had no alternative but to follow suit; but she did so with intense reluctance and with much vain kicking against the pricks. The new treaties, which will come into operation eleven months hence, inaugurate an era of greatly increased protection in Europe. From the specifically German point of view, their admitted object is to foster the interests of agriculture. Germany, General von Caprivi announced twelve years ago, has become a manufacturing state. For that "discovery" and for the "act of salvation" represented by his commercial treaties, the General was elevated to the dignity of Count by a grateful Emperor. But no Chancellor can hope to retain power in permanent opposition to the landed aristocracy of Prussia; and the simple soldier "without corn or straw" soon lost the favor of his monarch. The historical "act of salvation" has now been crowned by Count von Bülow—with an extinguisher! Germany, says the present Chancellor, is not merely an industrial community; her preeminent interests are agricultural. Accordingly, in his new treaties he has subordinated the demands of the manufacturing industries to those of the Agrarians. The economical theory on which he bases and justifies this policy is the protection of the home market, which, it is argued, is relatively of infinitely greater importance than any foreign market. Great Britain is quoted in this argument as the warning example. She is losing her ascendency as a manufacturing Power, the German economists contend, because of the inadequacy of her home demand. It is true that she has gained a few millions of colonial customers in the course of the free-trade era; but she has at the same time lost millions of agricultural workers, who, if they had been encouraged by a wise system of protection to remain on the land, would to-day represent a body of consumers, considerably higher in value to the manufacturing industries of the United Kingdom than the largest British colony.

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WASHINGTON, *February, 1905.*

THE incidents of interest from the view-point of world-politics which have taken place at Washington during the last thirty days are, first, the passage, by an overwhelming majority, of the Esch-Townsend bill reported to the House of Representatives, the bill empowering the Interstate Commerce Commission to fix provisionally under certain circumstances the railway rates for transportation, which rates, however, are subject to review by a newly created Federal tribunal; secondly, the relation provisionally assumed by the United States Executive toward the Dominican Republic; and, lastly, the Senate's practical rejection of six arbitration treaties concluded with European Powers, through its imposition of an amendment which our State Department, very properly, has declined to submit to the other parties to the contracts. As we have formerly mentioned, foreign countries are concerned in the fate of the Esch-Townsend bill, because, if it becomes a law, the measure will enable the Interstate Commerce Commission to fix the rates chargeable for the conveyance of imported articles from the ports of entry to points in the interior of the great American Republic. There is no doubt that American railway companies, viewed collectively, were much opposed to the Esch-Townsend bill; and, assuredly, they had reason to suppose that they had a good many friends in the House of Representatives. Nevertheless, that body was stampeded by the President's popularity; and, when the decisive vote was taken, the champions of the railways were few and far between. Was it possible that even the Senate, which long has been regarded as the stronghold of railway and other corporate interests, could withstand such a tidal wave of sentiment? That was the question which the "Big Four," as the steerers in the Republican majority of the Senate are called, had to ponder over. Was it practicable, they asked each other, to undermine the President's popularity, and sap his reputation for good judgment, so that the Senate might throw out, or postpone indefinitely, the Esch-Townsend bill, without provoking a storm of popular opprobrium? Was it not possible to represent recent Santo Domingo incidents as proofs that President Roosevelt could not safely be entrusted with the power to conclude, without the express ratification of the Senate, special agreements with foreign countries; and, on the strength of such representation, to nullify

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the six general arbitration treaties concluded with European Powers, by inserting an amendment to the effect that each special agreement made by our State Department under them must be ratified by the Senate, as if it were a separate treaty? The Senatorial friends of the railways seem to have made up their minds that, in this way, they could so effectually discredit Mr. Roosevelt that their subsequent opposition to his railway-rate bill—the Esch-Townsend bill is virtually his—would be tolerated by the people. Accordingly, they persuaded the Senate to insert by a majority of 50 to 9, in the six general arbitration treaties, an amendment which gutted them of all practical utility, and which our Secretary of State would no more think of proposing to European Powers than he would dream of offering them gold bricks. For what was it that the general arbitration treaties undertook to do? They simply undertook to define with the utmost carefulness and rigor certain categories of international differences, which our State Department should be at liberty by special agreement to refer to arbitration, without incurring the prolonged delay involved in the submission of each particular case to the ratification of the Senate. The treaties simply assumed that the Senate had a right to ratify a compact relating to a specific class of controversies, just as a legislature has a right to make a law prescribing the penalty for a particular category of offences. We venture to predict that the United States Supreme Court would uphold the right of the Senate, under the second clause of the second section of the second Article of the Federal Constitution, to define beforehand a class of international differences any one of which the State Department might be authorized to refer by special agreement to arbitration. This was all that Secretary Hay assumed to do in the six arbitration treaties which the Senate has rejected in their original form, on the plea that their constitutional duty compels them to regard each special agreement concluded under a general arbitration compact as a separate treaty.

There is a widespread and growing conviction among intelligent Americans that, viewed as a matter of abstract law, the Senate's contention is unfounded; and that, even if the plea be technically valid, it is put forward very late, and is prompted, seemingly, by questionable motives. It has taken the Senate fifty-six years to discover that it cannot permit the Executive to apply by a

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special agreement, unsanctioned specifically by the Senate, a general arbitration treaty. The Treaty of Guadeloupe-Hidalgo, concluded with Mexico in 1848, contained an arbitration clause even broader than the provisions embodied in the six univocal arbitration treaties negotiated by Secretary Hay. Will it be alleged that a body including, as it did, such men as Daniel Webster, John C. Calhoun, Henry Clay and Thomas H. Benton, was not competent to discern and proclaim the Senate's constitutional rights and duties? Assuming, for the sake of argument, that the Senate, as at present constituted, is better qualified than it was fifty-six years ago to interpret the second clause of the second section of the second Article of the Federal Constitution, how are we to explain the fact that it made no protest when, two or three years ago, our State Department, acting under the arbitration clause of the Treaty of Guadeloupe-Hidalgo, undertook, by a special agreement with the Mexican Government, to refer the disputed disposition of the so-called California Pious Fund to The Hague Tribunal? The special agreement was known to every one; the arbitration which it authorized took place; an award was made and duly carried out; yet not a word of remonstrance was heard from the Senate, which now shows itself so acutely jealous of its prerogative. Again, in January, 1903, while the Senate was in session, it was a matter of notoriety that our State Department had entered into a "special agreement" with the Executive of the Dominican Republic, whereby the claim of the Santo Domingo Improvement Company of New York against that commonwealth was to be submitted to a board of arbitrators, one of whom was to be an American citizen, and another a Dominican citizen, while the umpire was to be Judge George Gray, of Delaware. The award was rendered in July, 1904; and, in pursuance of it, a fiscal agent appointed by our State Department took charge of the custom-house at Puerto Plata, and has since applied its revenues to the payment of the debt due the American corporation. It will be observed that, during two years, the Senate remained an indifferent spectator of a transaction which, according to the position now assumed by it, constituted a serious infraction of its constitutional rights. We add that the Senate, in the exercise of its treaty-making power, deliberately ratified The Hague Convention, although the very gist of that Convention is that, whenever a

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given international difference shall fall under any one of several carefully defined categories, the signatories concerned shall by special agreements refer the difference to The Hague Tribunal.

It seems that Mr. Lodge, of Massachusetts, by way of keeping his fellow Senators in countenance, has prepared a paper in which he undertakes to show that, when the Senate emasculated the six arbitration treaties concluded by our State Department (by insisting upon substituting for "special agreement" the word "treaty"), it did what almost every European Government, based on representative institutions—Great Britain is acknowledged to be an exception—habitually does and must do under its organic law. In other words, neither the French nor any other Continental Parliament will—according to Mr. Lodge—ratify an arbitration treaty concluded by its Executive, except upon the understanding that every separate application of the arbitration principle should be embodied in a distinct treaty, and, as such, ratified in conformity to the organic law's provisions. That is what Mr. Lodge means to say, if he means anything by his memorandum. We can exemplify the value of his elaborate array of pretended parallels and precedents, if we take the case of France. Everybody who ever read the organic law of 1875 is conversant with the terms in which the treaty-making power is defined and regulated. It is not true that all treaties concluded by the French Executive must be submitted to the French Parliament for ratification. The most vital of all treaties in the history of the Third French Republic—the Treaty of Alliance with Russia—has never been so submitted. Only treaties dealing with certain carefully specified classes of subjects require ratification by both Houses of the French Parliament. Even as regards those specified classes, it has never been disputed that the French Parliament has the power, by sanctioning a general treaty of arbitration, to ratify in advance any special agreement entered into by the Executive in pursuance of that treaty. If the French Executive should exceed its authority by transcending the prescribed limitations, it would do so at its own risk. Does Mr. Lodge want chapter and verse for our averments? In the first place, when France became a signatory of The Hague Convention, it agreed, with all the formalities of a treaty, that its Executive should have the power to enter into a special agreement to refer to The Hague Tribunal any international

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difference that should fall under any of the categories formulated in that Convention. Subsequently, and very recently, the French Parliament has ratified an arbitration treaty with Great Britain identical with the compacts that our Senate has just rejected, a treaty providing that the French and British Foreign Offices might, by a special agreement, refer to arbitrators any controversy which should belong to any of several specified classes. Secretary Hay, for his part, was aware, because he had taken measures to inform himself, that not one of the six European countries with which he had negotiated arbitration treaties, would experience any difficulty in securing a Parliamentary ratification of those treaties—if such ratification were needed—"special-agreement" clause and all. Nor can there be any doubt that he had made known the fact to the Senate Committee on Foreign Relations, to every member of which he had submitted drafts of the proposed treaties, and had elicited an expression of approval from all of the members except one. This is admitted, and the only excuse offered by the members of the Committee for breaking the promise given to the Secretary is that they did not then fully realize the distinction between a "special agreement" and a "treaty." In other words, they plead the baby act.

What is the actual status of the Santo Domingo affair? It is not true that the original protocol of January 20, however desirable it may have seemed to President Morales of Santo Domingo, and however admirable to the eyes of the amateur diplomatists who framed it, was either authorized in advance, or subsequently accepted, by our State Department. On the contrary, it was repudiated the moment its text was inspected. It has never been acted upon in a single Dominican port. Our representative at the Dominican capital was forthwith instructed to negotiate a new agreement, more in consonance with our Government's intentions; and the substituted compact, having been duly signed by our diplomatic agent and the Dominican Minister for Foreign Affairs, reached our State Department on February 15, and, together with a special message explaining its purport, was submitted to the Senate that very day. The agreement, which is embodied in a treaty, provides that the United States shall collect the customs revenues of Santo Domingo, and turn over to President Morales's Government 55 per cent. thereof, to meet the cost of the Dominican Republic's

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domestic administration, the remaining 45 per cent. being reserved for disbursement among foreign creditors. The United States covenant, on their part, to respect the territorial and political integrity of Santo Domingo; and it is stipulated that the protocol or treaty shall be approved by the Dominican Congress, as well as by the United States Senate. We do not see how Senators can refuse to ratify this compact, except upon the assumption that the Monroe Doctrine does not pledge us to interpose between European creditors and a debtor American commonwealth, by playing the part of a receiver, and undertaking to collect and pay, not only indemnities due for public wrongs, but ordinary debts arising out of contract. Up to the time when we permitted the blockade of Venezuelan seaports by European creditor-Powers, and allowed them to confiscate a part of their debtor's customs revenues for the payment, not only of compensation for wrongs, but also of ordinary debts, our Government might have argued that, to debts arising out of contract, the maxim "*caveat emptor*" should apply, and that we could not permit European Governments to enforce by violence the satisfaction of such obligations by a delinquent American commonwealth. The Roosevelt Administration, however, was estopped from taking such a stand after it remained an impassive spectator of the Venezuela blockade. There was only one possible loophole of escape from the dilemma in which our Government had placed itself. Mr. Roosevelt saw the loophole, and availed himself of it by announcing in the letter read at the Cuban dinner, an announcement now embodied in the agreement with Santo Domingo, that, if any debtor American republic is to be placed in the hands of a receiver, we ourselves will assume the receivership. As Mr. Roosevelt points out in his special message to the Senate, if we are to guarantee the territorial and political integrity of American republics, and if we are to fulfil our promise that their destiny shall in no wise fall under foreign control, it has become indispensable for us to see that just debts and obligations contracted by these republics be paid, so that there may be no pretext for foreign intervention in their affairs. It is for Senators to say whether they prefer to sanction the President's position, or to provoke a repetition of the Venezuela blockade. The United States must take one course or the other. They cannot pursue any longer a dog-in-the-manger policy.

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